

SUBCHAPTER II—SCENIC AREAS

§ 541. Cascade Head Scenic-Research Area; establishment

In order to provide present and future generations with the use and enjoyment of certain ocean headlands, rivers, streams, estuaries, and forested areas, to insure the protection and encourage the study of significant areas for research and scientific purposes, and to promote a more sensitive relationship between man and his adjacent environment, there is hereby established, subject to valid existing rights, the Cascade Head Scenic-Research Area (hereinafter referred to as "the Area") in the Siuslaw National Forest in the State of Oregon.

(Pub. L. 93-535, §1, Dec. 22, 1974, 88 Stat. 1732.)

§ 541a. Administration, protection, development, and regulation of use

The administration, protection, development, and regulation of use of the Area shall be by the Secretary of Agriculture (hereinafter referred to as the "Secretary") in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute to attainment of the purpose of this subchapter.

(Pub. L. 93-535, §2, Dec. 22, 1974, 88 Stat. 1732.)

§ 541b. Boundaries of scenic-research area; adjustments to subarea boundaries; development of management plan; establishment of subareas; management objectives**(a) Boundaries; adjustments to boundaries of subareas**

The boundaries of the Area, and the boundaries of the subareas included therein, shall be those shown on the map entitled "Proposed Cascade Head Scenic-Research Area", dated June 1974, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture: *Provided*, That, from time to time, the Secretary may, after public hearing or other appropriate means for public participation, make adjustments in the boundaries of subareas to reflect changing natural conditions or to provide for more effective management of the Area and each of the subareas in accordance with the purposes and provisions of this subchapter.

(b) Management plan; development; time; contents

As soon as practicable after December 22, 1974, the Secretary shall, with provisions for appropriate public participation in the planning process, develop a comprehensive management plan for the Area. Said plan shall prescribe specific management objectives and management controls necessary for the protection, management, and development of the Area and each of the subareas established pursuant to subsection (c) of this section.

(c) Subareas; establishment; management objectives

Within the Area, the following subareas shall be established and shall be managed in accord

with the following primary management objectives which shall be supplemental to the general management objectives applicable to the entire Area:

(1) Estuary and Associated Wetlands Subarea: An area managed to protect and perpetuate the fish and wildlife, scenic, and research-education values, while allowing dispersed recreation use, such as sport fishing, nonmotorized pleasure boating, waterfowl hunting, and other uses which the Secretary determines are compatible with the protection and perpetuation of the unique natural values of the subarea. After appropriate study, breaching of existing dikes may be permitted within the subarea.

(2) Lower Slope-Dispersed Residential Subarea: An area managed to maintain the scenic, soil and watershed, and fish and wildlife values, while allowing dispersed residential occupancy, selective recreation use, and agricultural use.

(3) Upper Timbered Slope and Headlands Subareas: Areas managed to protect the scenic, soil and watershed, and fish and wildlife values while allowing selective recreation and extensive research-educational activities. Timber harvesting activity may occur in these subareas only when the Secretary determines that such harvesting is to be conducted in connection with research activities or that the preservation of the timber resource is imminently threatened by fire, old age, infestation, or similar natural occurrences.

(4) Coastline and Sand Dune-Spit Subareas: Areas managed to protect and maintain the scenic and wildlife values while allowing selective recreation and extensive research-educational activities.

(Pub. L. 93-535, §3, Dec. 22, 1974, 88 Stat. 1732.)

§ 541c. Extension of boundaries of Siuslaw National Forest; transfer of Federal property to Secretary

(a) The boundaries of the Siuslaw National Forest are hereby extended to include all of the lands lying within the Area as described in accordance with section 541b of this title which are not within the national forest boundaries on December 22, 1974.

(b) Notwithstanding any other provision of law, any Federal property located on the lands added to the Siuslaw National Forest by this section may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary. Any lands so transferred shall become part of the Siuslaw National Forest.

(Pub. L. 93-535, §4, Dec. 22, 1974, 88 Stat. 1733.)

§ 541d. Acquisition of property within the scenic-research area; consent of owner; substantial change in use or maintenance of property**(a) Acquisition of lands, waters and interests by donation, purchase, etc.**

Subject to the provisions of subsection (b) of this section, the Secretary is authorized to acquire lands, waters, or interests therein within the Area by donation, purchase, exchange, or otherwise.

(b) Consent of owner for acquisition of lands in sub-areas; exceptions; guidelines for determination of substantial change in land use or maintenance

Within all subareas of the Area except the estuary and associated wetlands subarea, the Secretary may not acquire any land or interest in land without the consent of the owner or owners so long as the owner or owners use such land for substantially the same purposes and in the same manner as it was used and maintained on June 1, 1974: *Provided, however,* That the Secretary may acquire any land or interest in land without the consent of the owner or owners when such land is in imminent danger of being used for different purposes or in a different manner from the use or uses existing on June 1, 1974. The Secretary shall publish, within one hundred and eighty days of December 22, 1974, guidelines which shall be used by him to determine what constitutes a substantial change in land use or maintenance for the non-federally-owned lands within the Area. Within the estuary and associated wetlands subarea the Secretary may acquire any land or interest in land without the consent of the owner or owners at any time, after public hearing.

(c) Substantial change in land use or maintenance; notice by owner; time; manner

At least thirty days prior to any substantial change in the use or maintenance of any non-federally-owned land within the Area, the owner or owners of such land shall provide notice of such proposed change to the Secretary or his designee, in accordance with such guidelines as the Secretary may establish.

(Pub. L. 93-535, § 5, Dec. 22, 1974, 88 Stat. 1733.)

§ 541e. Availability of funds for acquisition of lands, etc., within added area

Notwithstanding the provisions of section 4607-9(a)(1) of this title, moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of any lands, waters, or interests therein within the area added to the Siuslaw National Forest by this subchapter.

(Pub. L. 93-535, § 6, Dec. 22, 1974, 88 Stat. 1733.)

REFERENCES IN TEXT

The Land and Water Conservation Fund, referred to in text, was established by section 4607-5 of this title.

§ 541f. Withdrawal from location, entry and patent under mining laws; withdrawal from disposition under mineral leasing laws

The lands within the Area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(Pub. L. 93-535, § 7, Dec. 22, 1974, 88 Stat. 1733.)

§ 541g. Advisory council for scenic-research area; membership; designation of chairman; compensation; consultation by Secretary

(a) Advisory council; establishment; consultation; members; term; appointment

The Secretary, pursuant to the Federal Advisory Committee Act, shall establish an advisory council for the Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management of the Area. The members of the advisory council, who shall not exceed eleven in number, shall serve for the individual staggered terms of three years each and shall be appointed by the Secretary as follows—

(1) a member to represent each county in which a portion of the Area is located, each such appointee to be designated by the respective governing body of the county involved;

(2) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon; and

(3) not to exceed eight members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the Area.

(b) Chairman; vacancies

The Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(c) Compensation; reimbursement for expenses

The members shall not receive any compensation for their services as members of the advisory council, but they shall be reimbursed for travel expenses and shall be allowed, as appropriate, per diem or actual subsistence expenses.

(d) Consultation by Secretary with private groups, etc.; cooperation with other Federal, State, etc., agencies and organizations

In addition to his consultation with the advisory council, the Secretary shall seek the views of other private groups, individuals, and the public, and shall seek the views and assistance of, and cooperate with all other Federal, State, and local agencies with responsibilities for zoning, planning, migratory fish, waterfowl, and marine animals, water, and natural resources, and all nonprofit agencies and organizations which may contribute information or expertise about the resources, and the management, of the Area, in order that the knowledge, expertise and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Area and its various subareas for the benefit of the public.

(Pub. L. 93-535, § 8, Dec. 22, 1974, 88 Stat. 1733.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment,

unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 541h. Cooperation with State of Oregon in administration and protection of lands; civil and criminal jurisdiction; power of taxation

The Secretary shall cooperate with the State of Oregon and political subdivisions thereof in the administration of the Area and in the administration and protection of lands within and adjacent to the Area owned or controlled by the State or political subdivisions thereof. Nothing in this subchapter shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the Area consistent with the provisions of this subchapter, or of its right to tax persons, corporations, franchises or other non-Federal property, in or on the lands or waters within the Area.

(Pub. L. 93-535, § 9, Dec. 22, 1974, 88 Stat. 1734.)

§ 542. Langmuir Research Site; establishment

That in order to encourage scientific research into atmospheric processes and astronomical phenomena, and to preserve conditions necessary for that research, there is hereby established the Langmuir Research Site (hereinafter referred to as the "research site") in the Cibola National Forest in the State of New Mexico.

(Pub. L. 96-550, title II, § 201, Dec. 19, 1980, 94 Stat. 3225.)

§ 542a. Congressional findings

The Congress finds that the high altitude and freedom from air pollution and night luminosity caused by human activity, make the research site uniquely suited to the conduct of research probes into thunder clouds and for other atmospheric and astronomical research purposes.

(Pub. L. 96-550, title II, § 202, Dec. 19, 1980, 94 Stat. 3225.)

§ 542b. Administration, protection, and regulation of use

The Secretary of Agriculture shall administer, protect, and regulate use of the research site in accordance with the laws, rules, and regulations applicable to National Forest System lands, and in such manner as will best contribute to purposes of this Act.

(Pub. L. 96-550, title II, § 203, Dec. 19, 1980, 94 Stat. 3225.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96-550, Dec. 19, 1980, 94 Stat. 3221, which enacted sections 410ii to 410ii-7 and 542 to 542d of this title and enacted provisions set out as notes under sections 431 and 1132 of this title. For complete classification of this Act to the Code, see Tables.

§ 542c. Land use agreement

The Secretary of Agriculture in furtherance of the purposes of this Act, is hereby authorized, and directed, to enter into an appropriate land use agreement with New Mexico Institute of Mining and Technology for the Langmuir Research Site for the purpose of establishing conditions for use of the national forest land, and to set forth working relationships during such period of use.

(Pub. L. 96-550, title II, § 204, Dec. 19, 1980, 94 Stat. 3225.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96-550, Dec. 19, 1980, 94 Stat. 3221, which enacted sections 410ii to 410ii-7 and 542 to 542d of this title and enacted provisions set out as notes under sections 431 and 1132 of this title. For complete classification of this Act to the Code, see Tables.

§ 542d. Comprehensive management plan

(a) Boundaries

The research site shall consist of approximately thirty-one thousand acres, including a principle¹ research facility of approximately one thousand acres. The boundaries are depicted on a map entitled "Langmuir Research Site", dated August 1980, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture.

(b) Development of plan

As soon as practicable, after December 19, 1980, the Secretary of Agriculture shall develop a comprehensive management plan for the research site consistent with requirements of the National Forest Management Act of 1976 (Public Law 94-588) (16 U.S.C. 1604), which shall be incorporated into the initial Cibola National Forest land and resource management plan as provided for under that Act.

(c) Adjustment in boundaries

Following timely notice in writing to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor adjustments in the boundaries of the research site to provide for more effective management or to encourage further research activity. For the purposes of this subsection, minor boundary adjustments shall not increase or decrease the amount of land within the research site by more than seven thousand acres.

(d) Consultation with other public interest groups

In developing the plan, the Secretary shall consult with the National Science Foundation, the New Mexico Institute of Mining and Technology, the New Mexico Academy of Science and appropriate conservation, wilderness, wildlife, industry, and other public interest groups.

(e) Objectives of plan

The plan shall prescribe specific research and management objectives necessary for the pro-

¹ So in original. Probably should be "principal".

tection, management, and regulation of the research site as outlined in subsection (f) of this section.

(f) Management of site in accordance with the objectives

The research site shall be managed in accordance with the following objectives:

(1) The principal research facility shall be managed primarily for scientific research purposes. Dispersed recreation, grazing, and other uses which the Secretary determines to be compatible with scientific research may be permitted.

(2) The research site shall be managed to enhance scientific research objectives. Scientific research activities and associated research equipment and structures shall be permitted within the research site in accordance with the plan.

(3) Roads shall be limited to those necessary for scientific research activities and other reasonable activities as determined by the Secretary. Motor vehicle use shall be restricted to roads designated in the plan.

(4) The landing of small instrumented research rockets shall be permitted to continue in portions of the research site designated for such purposes in the plan.

(Pub. L. 96-550, title II, §205, Dec. 19, 1980, 94 Stat. 3225; Pub. L. 103-437, §6(d)(32), Nov. 2, 1994, 108 Stat. 4584.)

REFERENCES IN TEXT

The National Forest Management Act of 1976, referred to in subsec. (b), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

§ 543. Mono Basin National Forest Scenic Area; establishment

The area in the Mono Basin within and adjacent to the Inyo National Forest in the State of California, as generally depicted on a map entitled “Mono Basin National Forest Scenic Area” dated June 1983, and numbered 1983-3, is hereby designated as the Mono Basin National Forest Scenic Area (hereafter in sections 543 to 543h of this title referred to as the “Scenic Area”). Such map shall be on file and available for public inspection in the office of the Forest Supervisor, Inyo National Forest and in the office of the Chief of the Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter in sections 543 to 543h of this title referred to as the “Secretary”) may make minor revisions in the boundary of the Scenic Area after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Natural Resources of the

United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such notice shall be published and submitted at least sixty days before the revision is made.

(Pub. L. 98-425, title III, §301, Sept. 28, 1984, 98 Stat. 1632; Pub. L. 103-437, §6(d)(33), Nov. 2, 1994, 108 Stat. 4584.)

AMENDMENTS

1994—Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

§ 543a. Extension of National Forest boundary

(a) The exterior boundary of the Inyo National Forest is hereby extended to include the area within the boundary of the Scenic Area. Any lands and interests therein acquired pursuant to section 543b of this title shall become part of the National Forest System.

(b) For the purposes of section 460l-9(a)(1) of this title, the boundary of the Inyo National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1964.

(Pub. L. 98-425, title III, §302, Sept. 28, 1984, 98 Stat. 1633.)

§ 543b. Acquisition of lands

(a) Authority of Secretary; exceptions

The Secretary is authorized to acquire all lands and interests therein within the boundary of the Scenic Area by donation, exchange in accordance with sections 543 to 543h of this title or other provisions of law, or purchase with donated or appropriated funds, except that—

(1) any lands or interests therein within the boundary of the Scenic Area which are owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only by donation or exchange; and

(2) lands or interests therein within the boundary of the Scenic Area which are not owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the Scenic Area or which is otherwise incompatible with the purposes of sections 543 to 543h of this title.

(b) Guidelines; detrimental or incompatible use

(1) Not later than six months after September 28, 1984, the Secretary shall publish specific guidelines under which determinations shall be made under paragraph (2) of subsection (a) of this section. No use which existed prior to June 1, 1984, within the area included in the Scenic Area shall be treated under such guidelines as a detrimental or incompatible use within the meaning of such paragraph (2).

(2) For purposes of subsection (a)(2) of this section, any development or proposed development

of private property within the boundary of the Scenic Area that is significantly different from, or a significant expansion of, development existing as of June 1, 1984, shall be considered by the Secretary as detrimental to the integrity of the Scenic Area. No reconstruction or expansion of a private or commercial building, including—

(A) reconstruction of an existing building,

(B) construction of attached structural additions, not to exceed 100 per centum of the square footage of the original building, and

(C) construction of reasonable support development such as roads, parking, water and sewage systems shall be treated as detrimental to the integrity of the Scenic Area or as an incompatible development within the meaning of paragraph (2) of subsection (a) of this section.

(c) Preparation of environmental assessments

Notwithstanding any other provision of law, the Secretary shall only be required to prepare an environmental assessment of any exchange of mineral or geothermal interest authorized by sections 543 to 543h of this title.

(Pub. L. 98-425, title III, §303, Sept. 28, 1984, 98 Stat. 1633.)

§ 543c. Administration

(a) Scenic Area and other lands to be administered as part of Inyo National Forest

(1) Except as otherwise provided in sections 543 to 543h of this title, the Secretary, acting through the Chief of the Forest Service, shall administer the Scenic Area as a separate unit within the boundary of the Inyo National Forest in accordance with the laws, rules, and regulations applicable to the National Forest System. All Bureau of Land Management administered lands that fall within the boundaries of the Scenic Area are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(2) In addition, the following parcels administered by the Bureau of Land Management are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System:

township 1 south; range 26 east; Mount Diablo Meridian:

east half of southwest quarter and south half of southeast quarter of section 10; and

township 1 north; range 26 east; Mount Diablo Meridian:

southwest quarter of northeast quarter and west half of southeast quarter of section 9;

southwest quarter of southwest quarter of section 15;

southwest quarter of northwest quarter and northwest quarter of southwest quarter of section 25;

north half of southeast quarter of section 26, west half of northwest quarter and northwest quarter of southwest quarter of section 27;

township 1 north; range 27 east; Mount Diablo Meridian:

east half of southeast quarter of section 34; southwest quarter of northwest quarter of section 35; and

west half of section 30 as intersected by Scenic Area Boundary.

(b) Water rights; protection of geologic, ecologic and cultural resources; recreational use of Scenic Area; related facilities and programs; scientific study and research; commercial timber harvesting

(1) In a manner consistent with the protection of the water rights of the State of California or any political subdivision thereof (including the city of Los Angeles) or of any person to the extent that such water rights have been granted or modified under the laws of the State of California, the Secretary shall manage the Scenic Area to protect its geologic, ecologic, and cultural resources. The Secretary shall provide for recreational use of the Scenic Area and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of sections 543 to 543h of this title, and may assist adjacent affected local governmental agencies in the development of related interpretive programs. The Secretary shall permit the full use of the Scenic Area for scientific study and research in accordance with such rules and regulations as he may prescribe.

(2) Except as specifically provided in this subsection, no commercial timber harvesting shall be permitted in the Scenic Area, but the Secretary shall permit the utilization of wood material such as firewood, posts, poles, and Christmas trees by individuals for their domestic purposes under such regulations as he may prescribe to protect the natural and cultural resources of the Scenic Area. The Secretary may take action including the use of commercial timber harvest to the minimum extent necessary to control fires, insects and diseases that might—

(A) endanger irreplaceable features within the Scenic Area, or

(B) cause substantial damage to significant resources adjacent to the Scenic Area.

(c) Grazing permits

The Secretary shall permit those persons holding currently valid grazing permits within the boundary of the Scenic Area to continue to exercise such permits consistent with other applicable law.

(d) Cooperative agreements

The Secretary may enter into cooperative agreements with the State of California and any political subdivision thereof (including the city of Los Angeles) for purposes of protecting Scenic Area resources and administering areas owned by the State or by any such political subdivision which are within the Scenic Area.

(e) Management plan

Within three years after September 28, 1984, the Secretary shall submit to the committees referred to in section 543 of this title, a detailed and comprehensive management plan for the Scenic Area which is consistent with the protection of water rights as provided in subsection

(b)(1) of this section. The plan shall include but not be limited to—

- (1) an inventory of natural (including geologic) and cultural resources;
- (2) general development plans for public use facilities, including cost estimates; and
- (3) measures for the preservation of the natural and cultural resources of the Scenic Area in accordance with subsections (a) and (b) of this section.

Such plan shall provide for hunting and fishing (including commercial brine shrimp operations authorized under State law) within the Scenic Area in accordance with applicable Federal and State law, except to the extent otherwise necessary for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment.

(f) Visitor center

The Secretary is authorized to construct a visitor center in the Scenic Area for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the natural and cultural resources of the Scenic Area.

(g) Withdrawal of lands from operation of other Federal laws; regulation of mining claims

(1) Subject to valid existing rights, federally owned lands and interests therein within the Scenic Area are withdrawn from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], and from disposition under the public land laws.

(2) Subject to valid existing rights, all mining claims located within the Scenic Area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area, and any patent which may be issued after September 28, 1984, shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.

(h) Water rights

Nothing in sections 543 to 543h of this title shall be construed to reserve any water for purposes of the Scenic Area or to affirm, deny, or otherwise affect the present (or prospective) water rights of any person or of the State of California or of any political subdivision thereof (including the city of Los Angeles), nor shall any provision of sections 543 to 543h of this title be construed to cause, authorize, or allow any interference with or infringement of such water rights so long as, and to the extent that, those rights remain valid and enforceable under the laws of the State of California.

(i) Rights-of-way of city of Los Angeles

(1) The Act entitled "An Act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the

city of Los Angeles in Mono County in the State of California", approved June 23, 1936 (49 Stat. 1892), is hereby repealed.

(2) The Secretary and the Secretary of the Interior shall grant and convey rights-of-way easements, at no cost, to the city of Los Angeles for those rights-of-way on public lands and national forest lands in Mono County, California, as described and set forth in maps and accompanying descriptions which were—

(A) filed by the city of Los Angeles with the Secretary of the Interior on October 24, 1944, and

(B) accepted as proof of construction on behalf of the United States by the Commissioner of the General Land Office on January 4, 1945.

Such easement conveyances shall provide for the right of the city to continue its present operations and to maintain, reconstruct, and replace all existing water and power facilities located within the bounds of the area described in the maps and descriptions referred to in the preceding sentence. The United States shall reserve in the conveyance easements all rights to use and permit the use by others of the lands so conveyed to the extent that such use does not unreasonably interfere with the rights granted herein to the city of Los Angeles.

(3) The grant in paragraph (2) of this subsection shall become effective upon relinquishment in writing by the city of Los Angeles of its applications dated October 20, 1944, and January 17, 1945, to purchase twenty-three thousand eight hundred and fifty acres of Federal land.

(4) The easements granted under paragraph (2) of this subsection shall provide that whenever the city of Los Angeles ceases to use the land or any part thereof subject to such easements for the purposes for which it is currently being used, as of September 28, 1984, all interests in such land or part thereof shall revert to the United States.

(j) Existing community recreational uses

Existing community recreational uses, as of September 28, 1984, shall be permitted at the levels and locations customarily exercised.

(Pub. L. 98-425, title III, §304, Sept. 28, 1984, 98 Stat. 1634.)

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsec. (g)(1), is Pub. L. 91-581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§1001 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

The Act entitled "An Act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the city of Los Angeles in Mono County in the State of California", referred to in subsec. (i)(1), is act June 23, 1936, ch. 733, 49 Stat. 1892, which was not classified to the Code.

§543d. Ecological studies; reports to Congressional committees and to Chief of Forest Service; progress reports

The Secretary shall take such steps as may be necessary to, within one hundred and eighty days of September 28, 1984, enter into a contract

with the National Academy of Sciences for the purpose of conducting a scientific study of the ecology of the Scenic Area. The study shall provide for consultation with knowledgeable local, State, Federal, and private persons and organizations and shall provide findings and recommendations to the Congress. Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Chief of the Forest Service not later than January 1, 1987. Progress reports regarding the study shall be transmitted to the above committees on January 1, 1985, and January 1 of each year thereafter.

(Pub. L. 98-425, title III, §305, Sept. 28, 1984, 98 Stat. 1636.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 543e. Scenic Area Advisory Board

(a) Establishment; consultations with Secretary

There is hereby established the Scenic Area Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to—

- (1) the administration of the Scenic Area with respect to policies, programs, and activities in accordance with sections 543 to 543h of this title;
- (2) the preparation and implementation of the comprehensive management plan; and
- (3) the location of the visitor center authorized by section 543c(f) of this title.

(b) Composition and selection

The Board shall be composed of nine members, who shall be selected as follows:

- (1) five members appointed by the Mono County Board of Supervisors;
- (2) two members appointed by the Governor of California (one of whom shall be an employee of the California Division of Parks and Recreation);
- (3) one member appointed by the mayor of the city of Los Angeles; and
- (4) one member appointed by the Secretary (who shall be an employee of the Forest Service).

(c) Terms of appointment

Each member of the Board shall be appointed to serve for a term of three years except that the initial appointments shall be for terms as follows:

- (1) of those members appointed by the Mono County Board of Supervisors one shall be appointed to serve for a term of one year, two shall be for a term of two years, and two shall be for a term of three years;
- (2) of those members appointed by the Governor of California one shall be appointed to

serve for a term of one year and one shall be appointed to serve for a term of three years;

(3) the member appointed by the mayor of the city of Los Angeles shall be appointed to serve for a term of two years; and

(4) the member appointed by the Secretary shall be appointed to serve for a term of three years.

(d) Initial appointment; Chairman

The members of the Board shall be appointed within ninety days of September 28, 1984. The members of the Board shall, at their first meeting, elect a Chairman.

(e) Annual meetings and consultations with Secretary or designee

The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the administration of the scenic area.¹

(f) Compensation; expenses

Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their duties under sections 543 to 543h of this title.

(g) Vacancies

Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) Quorum

A majority of those members appointed shall constitute a quorum for the conduct of all business of the Board.

(i) Termination

The Board shall terminate ten years from the date of its first meeting.

(Pub. L. 98-425, title III, §306, Sept. 28, 1984, 98 Stat. 1637.)

§ 543f. Traditional Native American uses

In recognition of the past use of the Scenic Area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to Scenic Area lands by Indian people for such traditional cultural and religious purposes, including the harvest of the brine fly larvae. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (92 Stat. 469) [42 U.S.C. 1996, 1996a]. As a part of the plan prepared pursuant to section 543c(c) of this title, the Secretary shall, in consultation with appropriate Indian tribes, define the past cultural and religious uses of the Scenic Area by Indians.

(Pub. L. 98-425, title III, §307, Sept. 28, 1984, 98 Stat. 1638.)

REFERENCES IN TEXT

The American Indian Religious Freedom Act, referred to in text, is Pub. L. 95-341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For

¹ So in original. Probably should be capitalized.

complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

§ 543g. Authorization of appropriations

In addition to other amounts available for such purposes, effective October 1, 1985, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 543 to 543h of this title.

(Pub. L. 98-425, title III, §308, Sept. 28, 1984, 98 Stat. 1638.)

§ 543h. New spending authority

Any new spending authority described in subsection (c)(2)(A) or (B) of section 651¹ of title 2 which is provided under sections 543 to 543h of this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 98-425, title III, §309, Sept. 28, 1984, 98 Stat. 1638.)

REFERENCES IN TEXT

Section 651 of title 2, referred to in text, was amended by Pub. L. 105-33, title X, §10116(a)(3), (5), Aug. 5, 1997, 111 Stat. 691, by striking out subsec. (c) and redesignating former subsec. (d) as (c).

§ 544. Columbia River Gorge National Scenic Area; definitions

As used in sections 544 to 544p of this title, the term—

(a) “adversely affect” or “adversely affecting” means, except as used in section 544m of this title, a reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on—

- (1) the context of a proposed action;
- (2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;
- (3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and
- (4) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant affects to an insignificant level;

(b) “agricultural lands” means lands designated as agricultural lands pursuant to section 544d of this title;

(c) “Commission” means the Columbia River Gorge Commission established pursuant to section 544c of this title;

(d) “counties” means Hood River, Multnomah, and Wasco Counties, Oregon; and Clark, Klickitat, and Skamania Counties, Washington;

(e) “Dodson/Warrendale Special Purchase Unit” means the Dodson/Warrendale Special Purchase Unit established pursuant to section 544b of this title;

(f) “forest lands” means lands designated as forest lands pursuant to section 544d of this title;

(g) “Indian tribes” means the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation;

(h) “interim guidelines” means any interim guidelines developed by the Secretary pursuant to section 544h of this title, and any amendment, revision, or variance;

(i) “land use ordinance” or “ordinance” means any ordinance adopted by a county or by the Commission pursuant to sections 544 to 544p of this title, and includes any amendment to, revision of, or variance from such ordinance;

(j) “major development actions” means any of the following:

- (1) subdivisions, partitions and short plat proposals;
- (2) any permit for siting or construction outside urban areas of multifamily residential, industrial or commercial facilities, except such facilities as are included in the recreation assessment;
- (3) the exploration, development and production of mineral resources unless such exploration, development or production can be conducted without disturbing the surface of any land within the boundaries of a special management area or is for sand, gravel and crushed rock used for the construction, maintenance or reconstruction of roads within the special management areas used for the production of forest products; and

(4) permits for siting or construction within a special management area of any residence or other related major structure on any parcel of land less than forty acres in size;

(k) “management plan” means the scenic area management plan adopted pursuant to section 544d of this title;

(l) “open spaces” means unimproved lands not designated as agricultural lands or forest lands pursuant to section 544d of this title and designated as open space pursuant to section 544d of this title. Open spaces include—

- (1) scenic, cultural, and historic areas;
- (2) fish and wildlife habitat;
- (3) lands which support plant species that are endemic to the scenic area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;
- (4) ecologically and scientifically significant natural areas;
- (5) outstanding scenic views and sites;
- (6) water areas and wetlands;
- (7) archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;
- (8) potential and existing recreation resources; and
- (9) Federal and State wild, scenic, and recreation waterways;

(m) “recreation assessment” means the recreation assessment adopted pursuant to section 544d of this title;

¹ See References in Text note below.

(n) “residential development” means the permitting for siting or construction of any residence or other related major structure;

(o) “scenic area” means the Columbia River Gorge National Scenic Area established pursuant to section 544b of this title;

(p) “Secretary” means the Secretary of Agriculture;

(q) “special management areas” means areas within the scenic area established pursuant to section 544b of this title;

(r) “States” means the States of Oregon and Washington; and

(s) “urban areas” means those areas within the scenic area identified as urban areas on the map referred to in section 544b(e) of this title or within the boundaries of an urban area as revised pursuant to section 544b(f) of this title.

(Pub. L. 99-663, §2, Nov. 17, 1986, 100 Stat. 4274; Pub. L. 103-435, §17(b), Nov. 2, 1994, 108 Stat. 4573.)

REFERENCES IN TEXT

Federal Endangered Species Acts, referred to in subsec. (l)(3), are classified principally to chapter 35 (§1531 et seq.) of this title.

AMENDMENTS

1994—Subsec. (g). Pub. L. 103-435 substituted “Yakama Indian Nation” for “Yakima Indian Nation”.

SHORT TITLE

Section 1 of Pub. L. 99-663 provided that: “This Act [enacting this section and sections 544a to 544p of this title and amending sections 1274 and 1276 of this title] may be referred to as the ‘Columbia River Gorge National Scenic Area Act’.”

§ 544a. Purposes

The purposes of sections 544 to 544p of this title are—

(1) to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(2) to protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1).

(Pub. L. 99-663, §3, Nov. 17, 1986, 100 Stat. 4276.)

§ 544b. Establishment of scenic area

(a) National scenic area

(1) There is hereby established the Columbia River Gorge National Scenic Area.

(2) BOUNDARIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the boundaries of the scenic area shall be generally depicted on the map entitled “Boundary Map, Columbia River Gorge National Scenic Area,” numbered NSA-001 sheets 1 and 2, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(B) EXCLUSIONS.—The scenic area shall not include the approximately 29 acres of land owned by the Port of Camas-Washougal in the

South ½ of Section 16, Township 1 North, Range 4 East, and the North ½ of Section 21, Township 1 North, Range 4 East, Willamete¹ Meridian, Clark County, Washington, that consists of—

(i) the approximately 19 acres of Port land acquired from the Corps of Engineers under the Second Supplemental Appropriations Act, 1984 (Public Law 98-396); and

(ii) the approximately 10 acres of adjacent Port land to the west of the land described in clause (i).

(b) Special management areas

(1) The following areas within the boundaries of the scenic area are hereby designated “Special Management Areas”: Gates of the Columbia River Gorge; Wind Mountain; Burdoin Mountain; and Rowena.

(2) The boundaries of the special management areas designated by paragraph (1)—

(A) shall be generally depicted on the map entitled “Special Management Areas, Columbia River Gorge National Scenic Area”, numbered SMA-002 sheets 1 through 17, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service; and

(B) shall include all islands within the boundaries of the scenic area.

(3) MODIFICATION OF BOUNDARIES.—The boundaries of the special management areas are modified as depicted on a map dated September 20, 2000, which shall be on file and available for public inspection in the office of the Chief of the Forest Service in Washington, District of Columbia, and copies shall be available in the office of the Commission, and the headquarters of the scenic area.

(c) Revision of special management area boundaries

The Secretary, in consultation with the Commission, may make minor revisions in the boundaries of special management areas after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Natural Resources of the United States House of Representatives. Such notice shall be published and submitted at least sixty days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

(d) Dodson/Warrendale Special Purchase Unit

(1) There is hereby established the Dodson/Warrendale Special Purchase Unit.

(2) The boundaries of the Dodson/Warrendale Special Purchase Unit shall be generally depicted on the map entitled “Dodson/Warrendale Special Purchase Unit, Columbia River Gorge National Scenic Area”, numbered SPU-003 sheet 1, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

¹ So in original. Probably should be “Willamette”.

(e) Urban areas

(1) The following cities and towns are hereby designated as “Urban Areas”: Cascade Locks, Hood River, Mosier, and The Dalles, Oregon; and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram, Washington.

(2) The boundaries of urban areas shall be generally depicted on the map entitled, “Urban Areas, Columbia River Gorge National Scenic Area”, numbered UA-004 sheets 1 through 11, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service. The boundaries of urban areas designated in this subsection may be revised pursuant to the provisions of this section.

(f) Revision of urban area boundaries

(1) Upon application of a county and in consultation with the Secretary, the Commission may make minor revisions to the boundaries of any urban area identified in subsection (e) of this section. A majority vote of two-thirds of the members of the Commission, including a majority of the members appointed from each State, shall be required to approve any revision of urban area boundaries.

(2) The Commission may revise the boundaries of an urban area only if it finds that—

(A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;

(B) revision of urban area boundaries would be consistent with the standards established in section 544d of this title and the purposes of sections 544 to 544p of this title;

(C) revision of urban area boundaries would result in maximum efficiency of land uses within and on the fringe of existing urban areas; and

(D) revision of urban area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

(Pub. L. 99-663, §4, Nov. 17, 1986, 100 Stat. 4276; Pub. L. 103-437, §6(d)(34), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 105-277, div. A, §101(e) [title III, §354(a)], Oct. 21, 1998, 112 Stat. 2681-231, 2681-303; Pub. L. 106-31, title V, §5004(3), May 21, 1999, 113 Stat. 110; Pub. L. 106-291, title III, §346(d), Oct. 11, 2000, 114 Stat. 1000.)

REFERENCES IN TEXT

The Second Supplemental Appropriations Act, 1984, referred to in subsec. (a)(2)(B)(i), is Pub. L. 98-396, Aug. 22, 1984, 98 Stat. 1369. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Subsec. (b)(2). Pub. L. 106-291, §346(d)(1), substituted “by paragraph (1)” for “in this section” in introductory provisions.

Subsec. (b)(3). Pub. L. 106-291, §346(d)(2), which directed amendment of subsec. (b)(2) by adding at the end a par. (3), was executed by adding par. (3) after subsec. (b)(2), to reflect the probable intent of Congress.

1999—Subsec. (a)(2). Pub. L. 106-31 made technical correction to directory language of Pub. L. 105-277. See 1998 Amendment note below.

1998—Subsec. (a)(2). Pub. L. 105-277, as amended by Pub. L. 106-31, inserted par. (2) heading, designated ex-

isting provisions as subpar. (A), inserted heading, and substituted “Except as provided in subparagraph (B), the boundaries” for “The boundaries”, and added subpar. (B).

1994—Subsec. (c). Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committees on Agriculture and”.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-31, title V, §5004(4), May 21, 1999, 113 Stat. 110, provided that: “The amendments made by paragraphs (1), (2), and (3) of this section [amending this section and section 1374 of this title], shall take effect as if included in Public Law 105-277 on the date of its enactment [Oct. 21, 1998].”

CONGRESSIONAL INTENT OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(e) [title III, §354(b)], Oct. 21, 1998, 112 Stat. 2681-231, 2681-303, provided that: “The amendment made by subsection (a) [amending this section]—

“(1) is intended to achieve the intent of Congress set forth in Public Law 98-396 [see Tables for classification]; and

“(2) is not intended to set a precedent regarding adjustment or amendment of any boundaries of the Columbia River Gorge National Scenic Area or any other provisions of the Columbia River Gorge National Scenic Area Act [see Short Title note set out under section 544 of this title].”

§ 544c. Columbia River Gorge Commission

(a) Establishment and membership of Commission

(1) To achieve the purposes of sections 544 to 544p of this title and to facilitate cooperation among the States of Oregon and Washington, and with the United States of America, the consent of Congress is given for an agreement described in sections 544 to 544p of this title pursuant to which, within one year after November 17, 1986—

(A) the States of Oregon and Washington shall establish by way of an interstate agreement a regional agency known as the Columbia River Gorge Commission, and shall incorporate sections 544 to 544p of this title by specific reference in such agreement. The Commission shall carry out its functions and responsibilities in accordance with the provisions of the interstate agreement and of sections 544 to 544p of this title and shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law;

(B) the States of Oregon and Washington shall provide to the Commission, State agencies, and the counties under State law the authority to carry out their respective functions and responsibilities in accordance with the provisions of paragraph (1)(A) of this subsection; and

(C) the States of Oregon and Washington shall appoint members of the Commission as provided in clauses (i) through (iii), subject to applicable State law: *Provided*, That the Governor of either State may extend the time for appointment of Commission members ninety days to provide more time for the States and counties to make such appointments. Membership of the Commission shall be as follows:

(i) six members, comprised of one resident from each of the following counties: Hood

River, Multnomah, and Wasco Counties, Oregon, and Clark, Klickitat, and Skamania Counties, Washington, to be appointed by the governing body of each of the respective counties: *Provided*, That in the event the governing body of a county fails to make such appointment, the Governor of the State in which the county is located shall appoint such member;

(ii) three members who reside in the State of Oregon, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Oregon;

(iii) three members who reside in the State of Washington, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Washington; and

(iv) one ex officio, nonvoting member who shall be an employee of the Forest Service, to be appointed by the Secretary.

(2) The agreement shall take effect and the Commission may exercise its authorities pursuant to the agreement upon the appointment of four initial members from each State, subject to applicable State law, and the date of such an agreement shall be the date of establishment of the Commission. Such agreement is hereby consented to by the Congress.

(3) Either State or any county may fill any vacancy occurring prior to the expiration of the term of any member originally appointed by that State or county. Each member appointed to the Commission shall serve a term of four years, except that, with respect to members initially appointed pursuant to paragraph (1)(C)(i), each Governor shall designate one member to serve for a term of five years and one to serve for a term of six years, and one member from each State initially appointed pursuant to paragraph (1)(C)(ii) and (iii) shall be designated by the Governor to serve a term of five years, and one to serve a term of six years. Neither the Governors nor the governing bodies of any of the counties may appoint Federal, State, or local elected or appointed officials to the Commission.

(4) A majority of the members of the Commission shall constitute a quorum. The members of the Commission shall select from among themselves a Chairman by majority vote of the members appointed from each State.

(5) Except for the ex-officio member appointed pursuant to paragraph (1)(C)(iv), the members and officers and employees of the Commission shall not be officers or employees of the United States for any purpose. The Commission shall appoint, fix compensation for, and assign and delegate duties to such officers and employees as the Commission deems necessary to fulfill its functions under sections 544 to 544p of this title. The compensation of Commission members shall be fixed by State law. The compensation of Commission members, officers, and employees and the expenses of the Commission shall be paid from funds provided to the Commission by the States.

(b) Applicable law

For the purposes of providing a uniform system of laws, which, in addition to sections 544 to 544p of this title, are applicable to the Commission, the Commission shall adopt regulations re-

lating to administrative procedure, the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Commission, advisory committees, and disclosure of information consistent with the more restrictive statutory provisions of either State. Regulations applicable to financial disclosure under this subsection shall be applied to members of the Commission without regard to the duration of their service on the Commission or the amount of compensation received for such service. No contract, obligation, or other action of the Commission shall be an obligation of the United States or an obligation secured by the full faith and credit of the United States.

(c) Assistance to Commission

Upon the request of the Commission, the Secretary and other Federal agencies are authorized to provide information, personnel, property, and services on a reimbursable basis, and the Secretary is authorized to provide technical assistance on a nonreimbursable basis, to the Commission to assist it in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(d) Advisory committees

The Commission shall establish voluntary technical and citizen advisory committees to assist the Commission in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(Pub. L. 99-663, § 5, Nov. 17, 1986, 100 Stat. 4277.)

§ 544d. Scenic area management plan

(a) Studies

Within one year after the date the Commission is established, it shall, in cooperation with the Secretary, complete the following studies for use in preparing the management plan:

(1) Resource inventory

The Commission shall complete a resource inventory. The resource inventory shall—

(A) document all existing land uses, natural features and limitations, scenic, natural, cultural, archaeological and recreation and economic resources and activities: *Provided*, That the location of any Indian burial grounds, village sites, and other areas of archaeological or religious significance shall not be made public information and such information shall be used for administrative purposes only; and

(B) incorporate without change the resource inventory developed by the Secretary pursuant to section 544f of this title for the special management areas.

(2) Economic opportunity study

The Commission shall complete a study to identify opportunities to enhance the economies of communities in the scenic area in a manner consistent with the purposes of sections 544 to 544p of this title.

(3) Recreation assessment

The Commission shall complete an assessment of recreation resources and opportunities for enhancement of these resources. The recreation assessment shall—

(A) designate the location and specify the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(B) identify areas within the scenic area that are suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities and river access areas; and

(C) subject to the treaty and other rights of Indian tribes, designate areas to provide increased access for recreation purposes to the Columbia River and its tributaries; and

(D) incorporate without change the recreation assessment developed by the Secretary pursuant to section 544f of this title for the special management areas;

(b) Land use designations

Within two years after the Commission is established, it shall develop land use designations for the use of non-Federal lands within the scenic area. The land use designations shall—

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section, and consistent with the standards established in subsection (d) of this section;

(2) designate those lands used or suitable for the production of crops, fruits or other agricultural products or the sustenance of livestock as agricultural lands;

(3) designate lands used or suitable for the production of forest products as forest lands;

(4) designate lands suitable for the protection and enhancement of open spaces;

(5) designate areas in the scenic area outside special management areas used or suitable for commercial development: *Provided*, That such designation shall encourage, but not require, commercial development to take place in urban areas and shall take into account the physical characteristics of the areas in question and their geographic proximity to transportation, commercial, and industrial facilities and other amenities;

(6) designate areas used or suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities; and

(7) incorporate without change the designation of urban areas established in section 544b(e) of this title.

(c) Adoption of management plan

Within three years after the date the Commission is established, it shall adopt a management plan for the scenic area. The Commission shall adopt the management plan by a majority vote of the members appointed, including at least three members from each State. The management plan shall—

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section;

(2) include land use designations developed pursuant to subsection (b) of this section;

(3) be consistent with the standards established in subsection (d) of this section;

(4) incorporate without change the management direction for the use of Federal lands within and the land use designations for the special management areas adopted by the Secretary pursuant to section 544f of this title; and

(5) include guidelines for the adoption of land use ordinances for lands within the scenic area. The guidelines—

(A) shall incorporate without change the guidelines for the development of special management area land use ordinances developed by the Secretary pursuant to section 544f of this title; and

(B) shall not apply to urban areas designated in section 544b(e) of this title.

(d) Standards for management plan

The management plan and all land use ordinances and interim guidelines adopted pursuant to sections 544 to 544p of this title shall include provisions to—

(1) protect and enhance agricultural lands for agricultural uses and to allow, but not require, conversion of agricultural lands to open space, recreation development or forest lands;

(2) protect and enhance forest lands for forest uses and to allow, but not require, conversion of forest lands to agricultural lands, recreation development or open spaces;

(3) protect and enhance open spaces;

(4) protect and enhance public and private recreation resources and educational and interpretive facilities and opportunities, in accordance with the recreation assessment adopted pursuant to subsection (a) of this section;

(5) prohibit major development actions in special management areas, except for partitions or short plats which the Secretary determines are desirable to facilitate land acquisitions pursuant to sections 544 to 544p of this title;

(6) prohibit industrial development in the scenic area outside urban areas;

(7) require that commercial development outside urban areas take place without adversely affecting the scenic, cultural, recreation, or natural resources of the scenic area;

(8) require that residential development outside urban areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area; and

(9) require that the exploration, development and production of mineral resources, and the reclamation of lands thereafter, take place without adversely affecting the scenic, cultural, recreation and natural resources of the scenic area.

(e) Agency consultation and public involvement

The Secretary and the Commission shall exercise their responsibilities pursuant to sections 544 to 544p of this title in consultation with Federal, State, and local governments having jurisdiction within the scenic area or expertise pertaining to its administration and with Indian tribes. The Secretary and the Commission shall conduct public hearings and solicit public comment prior to final adoption of the management

plan and the Commission shall conduct public hearings and solicit public comment prior to final adoption of land use ordinances. The Commission and the appropriate county shall promptly notify the Secretary, the States, local governments and Indian tribes of all proposed major development actions and residential development in the scenic area.

(f) Concurrence of management plan

(1) Review by Secretary

Upon adoption of the management plan, the Commission shall promptly submit the plan to the Secretary for review. If the Secretary agrees with the Commission that the management plan is consistent with the standards established in this section and the purposes of sections 544 to 544p of this title, the Secretary shall concur to that effect. Should the Secretary fail to act on the proposed plan within ninety days, the Secretary shall be deemed to have concurred on the management plan.

(2) Denial of concurrence

If concurrence is denied, the Secretary shall state the reasons for finding the plan is inconsistent with the standards established in this section or the purposes of sections 544 to 544p of this title, and shall submit to the Commission suggested modifications to the management plan to make it consistent with such standards and the purposes of sections 544 to 544p of this title.

(3) Commission reconsideration

Within one hundred and twenty days after receipt of notification of non-concurrence, the Commission shall—

(A) revise and resubmit the plan to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a management plan consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(g) Revision of plan

No sooner than five years after adoption of the management plan, but at least every ten years, the Commission shall review the management plan to determine whether it should be revised. The Commission shall submit any revised management plan to the Secretary for review and concurrence, in accordance with the provisions of this section for adoption of the management plan.

(h) Amendment of plan

If the Commission determines at any time that conditions within the scenic area have significantly changed, it may amend the management plan. The Commission shall submit amendments to the management plan to the Secretary for review, in accordance with the provisions of this section for adoption of the management plan.

(Pub. L. 99-663, § 6, Nov. 17, 1986, 100 Stat. 4279.)

§ 544e. Administration of scenic area

(a) Management of scenic area

The non-Federal lands within the scenic area shall be administered by the Commission in ac-

cordance with the management plan and sections 544 to 544p of this title.

(b) Adoption of scenic area land use ordinances

(1) Within sixty days of initial receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit such letter or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (c) of this section.

(2) Within two hundred and seventy days of receipt of the management plan, each county shall adopt a land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a land use ordinance shall promptly submit the ordinance to the Commission.

(3) APPROVAL BY COMMISSION.—(A) Within ninety days after receipt of a land use ordinance, the Commission, by majority vote including at least three members from each State, shall approve the ordinance unless it determines the ordinance is inconsistent with the management plan. Should the Commission fail to act within ninety days, the ordinance shall be deemed to be approved.

(B) If approval is denied, the Commission shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the county suggested modifications to the ordinance to make it consistent with the management plan.

(C) Each county shall have ninety days after it receives recommendations from the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for approval. The Commission shall have sixty days to approve or disapprove the resubmitted ordinance. Any resubmitted ordinance shall become effective upon approval. Should the Commission disapprove the resubmitted ordinance, it shall promptly resubmit the ordinance for reconsideration. Should the Commission fail to act within sixty days, the ordinance shall be deemed to be approved.

(c) Commission land use ordinances

(1) Within ninety days after making a determination that a county has failed to comply with the provisions of this section, the Commission shall make and publish a land use ordinance setting standard for the use of non-Federal lands in such county within the boundaries of the national scenic area, excluding urban areas identified in section 544b(e) of this title. The ordinance shall have the object of assuring that the use of such non-Federal lands is consistent with the management plan. The ordinance may differ amongst the several parcels of land within the boundaries of the scenic area. The ordinance may from time to time be amended by the Commission.

(2) SUBSEQUENT COMPLIANCE.—In the event the Commission has promulgated regulations pursuant to this section, a county may thereafter upon written notice to the Commission elect to adopt a land use ordinance, in which event it shall comply with the provisions of this section

for adoption of a land use ordinance. Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.

(d) Construction of facilities

The Secretary is hereby authorized to design, construct, operate and maintain such facilities as are included in the recreation assessment.

(Pub. L. 99-663, §7, Nov. 17, 1986, 100 Stat. 4282.)

§ 544f. Administration of special management areas

(a) Administration of Federal lands

(1)¹ The Secretary shall administer Federal lands within the special management areas in accordance with sections 544 to 544p of this title and other laws, rules and regulations applicable to the national forest system. In addition, the construction of roads and the management, utilization and harvest of timber on Federal lands within the special management areas also shall be subject to Forest Service visual resource management guidelines. The Secretary shall utilize lands acquired through exchange in calculating the allowable sales quantity on the Gifford Pinchot and Mount Hood National Forests.

(b) Withdrawal of Federal lands

Subject to valid existing rights, all Federal lands located in the special management areas are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral and geothermal leasing: *Provided*, That the Secretary may allow the exploration, development, or production of sand, gravel, and crushed rock as necessary to construct, maintain, or reconstruct roads in the special management areas.

(c) Resource inventory

The Secretary shall complete a resource inventory for the special management areas consistent with the process and substance of the inventory prescribed by section 544d(a)(1) of this title.

(d) Recreation assessment

Within two years after November 17, 1986, the Secretary shall complete an assessment of recreation resources in the special management areas and opportunities for enhancement of these resources. The recreation assessment shall—

(1) identify areas within the special management areas suitable for designation by the Commission pursuant to section 544d of this title for the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(2) identify areas within the special management areas suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities, and river access areas; and

(3) subject to the treaty or other rights of Indian tribes, identify areas with the special management areas suitable for use to increase access for recreation purposes to the Columbia River and its tributaries.

(e) Land use designations

Within three years after November 17, 1986, the Secretary shall develop land use designations for the special management areas. The land use designations shall be—

(1) based on the resource inventory prepared by the Secretary pursuant to this section; and

(2) consistent with the standards established in section 544d of this title.

(f) Guidelines for land use ordinances

(1)² Within three years after November 17, 1986, the Secretary shall, in consultation with the Commission, develop guidelines to assure that non-Federal lands within the special management areas are managed consistent with the standards in section 544d of this title and the purposes of sections 544 to 544p of this title. The Secretary shall promptly transmit the guidelines to the Commission for inclusion in the management plan. The guidelines shall require that management, utilization, and disposal of timber, and exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest forest products on non-Federal lands within the special management areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area.

(h)³ Adoption of special management area land use ordinances

(1) Within sixty days of receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit a letter as provided in this subsection, or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (l) of this section.

(2) Within two hundred seventy days of receipt of the management plan, each county shall adopt a special management area land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a special management area land use ordinance shall promptly submit the adopted ordinance to the Commission.

(i) Review by Commission

(1) The Commission shall review the special management area land use ordinance received from each county, and within ninety days after receipt shall make a tentative determination as to whether the ordinance is consistent with the management plan. If the Commission makes a tentative determination that the land use ordinance is consistent with the management plan, the Commission shall send the ordinance to the Secretary for concurrence.

¹ So in original. No par. (2) has been enacted.

² So in original. No par. (2) has been enacted.

³ So in original. No subsec. (g) has been enacted.

(2) If the Commission makes a tentative determination that the land use ordinance is inconsistent with the management plan, the Commission shall state the reasons for the determination and shall return the ordinance to the appropriate county with suggested modifications required for consistency with the management plan.

(3) Each county shall have ninety days after it is notified by the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for tentative determination of consistency. The Commission shall have sixty days to make a tentative consistency determination on the resubmitted ordinance. If found consistent, the land use ordinance shall be transmitted by the Commission to the Secretary for concurrence that the ordinance is consistent with the management plan. If the Commission finds the resubmitted ordinance inconsistent, the Commission shall adopt an ordinance pursuant to subsection (l) of this section.

(j) Concurrence by Secretary

(1) Upon receipt of a special management area land use ordinance from the Commission, the Secretary shall notify the public of such receipt and shall, within ninety days thereafter, concur with the Commission's tentative determination of consistency with the management plan unless the Secretary determines the ordinance is inconsistent. Any ordinance submitted to the Secretary shall become effective upon notification of concurrence. Should the Secretary fail to act within ninety days, the Secretary shall be deemed to have concurred with the Commission's tentative consistency determination.

(2) DENIAL OF CONCURRENCE.—If concurrence is denied, the Secretary shall state the reasons therefor and shall submit to the Commission suggested modifications to the land use ordinances to make them consistent with the management plan and the purposes of sections 544 to 544p of this title.

(k) Commission reconsideration

Upon receipt of notification of nonconcurrence by the Secretary, the Commission shall resubmit the land use ordinance to the appropriate county. Such county shall within ninety days, reconsider and revise the ordinance and resubmit the ordinance to the Commission for reconsideration in accordance with the provisions of this section. Should the Secretary again deny concurrence, the Commission shall either prepare a land use ordinance for such county pursuant to subsection (l) of this section or, by a two-thirds vote of the membership of the Commission including a majority of the members appointed from each State, determine that the ordinance is consistent with the management plan.

(l) Commission ordinances

(1) Within ninety days after making a determination that a county has failed to comply with the provisions of subsection (h) of this section, the Commission shall make and publish an ordinance setting standards for the use of non-Federal lands of such county within the boundaries of the special management areas. The ordi-

nances shall have the object of assuring that the use of such lands is consistent with the management plan. The ordinances may differ amongst the several parcels of land within the boundaries of the special management areas. The ordinances may from time to time be amended by the Commission.

(2) The Commission shall promptly submit the ordinance to the Secretary. The Secretary shall, within ninety days after receipt of the ordinance from the Commission, concur with the tentative determination that the land use ordinance is consistent with the management plan unless a determination of inconsistency is made. Any ordinance submitted to the Secretary shall become effective upon concurrence. Should the Secretary fail to concur within ninety days, the land use ordinance shall be effective.

(3) If concurrence is denied, the Secretary shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the Commission suggested modifications to the ordinance to make it consistent with the plan.

(4) The Commission shall have ninety days after it receives recommendations from the Secretary to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Secretary for concurrence. The Secretary shall have sixty days to concur with the resubmitted ordinance. Any resubmitted ordinance shall become effective upon concurrence by the Secretary. Should the Secretary deny concurrence for the resubmitted ordinance, the Secretary shall state the reasons therefor and shall promptly resubmit the ordinance for reconsideration. Should the Secretary fail to concur within sixty days, the ordinance shall be deemed effective.

(5) Within one hundred twenty days after receipt of notification of non-concurrence, the Commission shall—

(A) revise and resubmit the land use ordinance to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a land use ordinance consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(m) Subsequent compliance

In the event the Commission has adopted an ordinance pursuant to this section, the affected county may thereafter, upon written notice to the Commission and to the Secretary, elect to adopt a special management area land use ordinance, in which event it shall comply with the provisions of this section for adoption of special management area land use ordinances. Upon concurrence of such land use ordinances by the Secretary they shall supersede any special management area land use ordinances for the county development by the Commission, subject to valid existing rights.

(n) Effect of Secretary's non-concurrence

If the Secretary does not concur in any land use ordinance approved or adopted by the Commission pursuant to this section, the availability of certain funds to the relevant county shall be governed by section 544n(c) of this title.

(o) Special rules**(1) In general**

Any ordinance adopted pursuant to this section shall not apply to any parcel or parcels of land within a special management area if, after the date such ordinance has been adopted, three years have elapsed after a landowner has made a bona fide offer to sell at fair market value or otherwise convey such parcel or parcels to the Secretary, unless the affected landowner agrees to an extension of the three year period: *Provided*, That an offer shall not be considered bona fide if the landowner refuses consideration equal to the fair market value as appraised in accordance with section 544g(e) of this title. Lands for which an ordinance is suspended pursuant to this subsection shall be subject to the relevant scenic area land use ordinance adopted pursuant to section 544e of this title.

(2) Applicability

This subsection shall not apply to any land offered to the Secretary for acquisition after March 31, 2001.

(Pub. L. 99-663, § 8, Nov. 17, 1986, 100 Stat. 4283; Pub. L. 106-291, title III, § 346(b), Oct. 11, 2000, 114 Stat. 999.)

AMENDMENTS

2000—Subsec. (o). Pub. L. 106-291 designated existing provisions as par. (1), inserted par. heading, substituted “section 544g(e) of this title.” for “the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 1973).” in first sentence, and added par. (2).

ADMINISTRATION, OPERATION, AND MAINTENANCE OF PIERCE NATIONAL WILDLIFE REFUGE AND LITTLE WHITE SALMON NATIONAL FISH HATCHERY

Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 418, provided in part that: “Notwithstanding the provisions of Public Law 99-663 [enacting sections 544 to 544p of this title and amending sections 1274 and 1276 of this title], which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the National Wildlife Refuge System Administration Act [16 U.S.C. 663dd, 668ee], Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], and Fish and Wildlife Act of 1956 [16 U.S.C. 742a et seq.] by the U.S. Fish and Wildlife Service.”

§ 544g. Land acquisition**(a) Acquisition authorized**

(1) The Secretary is authorized to acquire any lands or interests therein within the special management areas and the Dodson/Warrendale Special Purchase Unit which the Secretary determines are needed to achieve the purposes of sections 544 to 544p of this title: *Provided*, That any lands, waters, or interests therein owned by either State or any political subdivision thereof may be acquired only by donation or exchange.

(2) Lands within the State of Oregon acquired by the Secretary pursuant to sections 544 to 544p of this title shall become part of the Mount Hood National Forest. Lands within the State of Washington acquired by the Secretary pursuant to this section shall become part of the Gifford Pinchot National Forest. All lands acquired by

the Secretary pursuant to sections 544 to 544p of this title shall be subject to the laws and regulations pertaining to the National Forest System and sections 544 to 544p of this title.

(b) Limitations on eminent domain

(1) Where authorized in subsection (a) of this section to acquire land or interests therein without the consent of the owner, the Secretary shall—

(A) acquire only such land or interests therein as is reasonably necessary to accomplish the purposes of sections 544 to 544p of this title; and

(B) do so only in cases where all reasonable efforts to acquire with the consent of the owner such lands, or interests therein, have failed.

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary may not acquire without the consent of the owner lands or interests therein which—

(A) on November 17, 1986, were used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming, or grazing so long as the existing character of that use is not substantially changed or permitted for change;

(B) are located in counties with land use ordinances in which the Secretary has concurred pursuant to section 544f of this title, unless such lands are being used, or are in imminent danger of being used, in a manner incompatible with such ordinances;

(C) are within the boundaries of the Dodson/Warrendale Special Purchase Unit; or

(D) are owned by an Indian tribe, held in trust by the United States for an Indian tribe or member of an Indian tribe, or otherwise administered by the United States for the benefit of an Indian tribe or member of an Indian tribe.

(c) Hardship cases

In exercising authority to acquire lands pursuant to this section the Secretary shall give prompt and careful consideration to any offer made by any person or entity owning any land, or interest in land, within the boundaries of a special management area. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(d) Land exchanges

(1) The Secretary is authorized and directed, in conformance with the provisions of this subsection, to acquire by exchange any parcel of unimproved forest land at least forty acres in size within the boundaries of the special management areas which is owned by any private forest land owner if, after November 17, 1986, but within one hundred and eighty days after final adoption of the management plan, such private forest land owner offers to the United States such parcel of forest land.

(2) In exercising this authority to acquire forest lands pursuant to this subsection, the Secretary may accept title to such lands and convey to the owner federally owned lands deemed appropriate by the Secretary within the States

of Oregon and Washington, regardless of the State in which the transferred lands are located. Forest lands exchanged pursuant to this subsection shall be of approximately equal value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged: *Provided further*, That the Secretary may reserve in any conveyance pursuant to this subsection such easements, subsurface rights, and any other interests in land deemed necessary or desirable: *Provided further*, That the valuation of lands exchanged shall be determined in terms of forest uses for timber.

(3) It is the intention of Congress that land exchanges pursuant to this subsection shall be completed no later than five years after November 17, 1986.

(4) In the event that exchanges authorized by this section leave any private forest land owner with ownership of an uneconomic remnant of forest land contiguous to a special management area, the Secretary is authorized to acquire such forest lands as if they were within the boundaries of a special management area.

(5) The following-described Federal lands and interests therein are hereby identified as candidate lands for exchanges conducted pursuant to this section: *Provided*, That the determination of which candidate lands will be exchanged, and in what sequence, shall be at the discretion of the Secretary. Subject to valid existing rights, such lands are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry, and patent under the United States mining law, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto until the Secretary determines such lands are no longer needed to complete exchanges authorized by this section: *Provided*, That such period shall not extend beyond five years:

GIFFORD PINCHOT NATIONAL FOREST		
Wind River-Panther Creek Area		
Section	Township	Range
35	4N	7E
36	4N	7E
Approx. 430 acres.		
South Swift Area		
Section	Township	Range
13	6N	5E
23	6N	5E
17	6N	6E
18	6N	6E
Approx. 1,920 acres.		
National Area		
Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E
Approx. 2,560 acres.		

Buck Creek-Willard Area		
Section	Township	Range
16	3N	9E
1	4N	9E

Buck Creek-Willard Area—Continued		
Section	Township	Range
2	4N	9E
3	4N	9E
10	4N	9E
11	4N	9E
12	4N	9E
15	4N	9E
21	4N	9E
22	4N	9E
26	4N	9E
27	4N	9E
28	4N	9E
29	4N	9E
30	4N	9E
31	4N	9E
32	4N	9E
33	4N	9E
34	4N	9E
35	4N	9E
6	4N	10E
7	4N	10E
5	5N	10E
6	5N	10E
7	5N	10E
8	5N	10E
9	5N	10E
30	5N	10E
31	5N	10E
32	5N	10E
Approx. 14,460 acres.		

SIUSLAW NATIONAL FOREST		
East Beaver Area		
Section	Township	Range
33	2S	9W
34	2S	9W
2	3S	9W
3	3S	9W
4	3S	9W
8	3S	9W
9	3S	9W
17	3S	9W
Approx. 3,053 acres.		

WILLAMETTE NATIONAL FOREST		
Ida-McCoy Area		
Section	Township	Range
21	10S	6E
28	10S	6E
Approx. 680 acres.		

MOUNT HOOD NATIONAL FOREST		
Estacada Area		
Section	Township	Range
15	4S	5E
Approx. 560 acres.		

Hood River Area		
Section	Township	Range
4	1N	9E
36	1N	10E
31	1N	11E
2	1S	9E
3	1S	9E
4	1S	9E
5	1S	9E
6	1S	9E
Approx. 5,800 acres.		

Zig-Zag Area		
Section	Township	Range
22	2S	7E
29	2S	7E
Approx. 280 acres.		
Total acreage: 29,743.		

(e) Appraisals

(1) Definition of landowner

In this subsection, the term “landowner” means the owner of legal or equitable title as of September 1, 2000.

(2) Appraisal standards

Except as provided in paragraph (3), land acquired or conveyed by purchase or exchange under this section shall be appraised in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.

(3) Special management areas**(A) Before April 1, 2001**

Land within a special management area for which the landowner, before April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised—

(i) without regard to the effect of any zoning or land use restriction made in response to sections 544 to 544p of this title; but

(ii) subject to any other current zoning or land use restriction imposed by the State or locality in which the land is located on the date of the offer.

(B) On or after April 1, 2001

Land within a special management area for which the landowner, on or after April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised subject to—

(i) any zoning or land use restriction made in response to sections 544 to 544p of this title; and

(ii) any other current zoning or land use restriction that applies to the land on the date of the offer.

(f) Authorization for certain land exchanges**(1) In general**

To facilitate priority land exchanges through which land within the boundaries of the White Salmon Wild and Scenic River or within the scenic area is conveyed to the United States, the Secretary may accept title to such land as the Secretary determines to be appropriate within the States, regardless of the State in which the land conveyed by the Secretary in exchange is located, in accordance with land exchange authorities available to the Secretary under applicable law.

(2) Special rule for land certain exchanges

Notwithstanding any other provision of law—

(A) any exchange described in paragraph (1) for which an agreement to initiate has been executed as of September 30, 2000, shall continue; and

(B) any timber stumpage proceeds collected under the exchange shall be retained by the Forest Service to complete the exchange.

(g) Boundaries

For the purposes of section 460l-9 of this title, the boundaries of the scenic area, including special management areas and the Dodson/Warrendale Special Purchase Unit shall be treated as if they were within the boundaries of the Mount Hood or Gifford Pinchot National Forests as of January 1, 1965.

(Pub. L. 99-663, §9, Nov. 17, 1986, 100 Stat. 4287; Pub. L. 104-66, title I, §1011(n), Dec. 21, 1995, 109

Stat. 710; Pub. L. 106-291, title III, §346(a), Oct. 11, 2000, 114 Stat. 999.)

AMENDMENTS

2000—Subsecs. (e) to (g). Pub. L. 106-291 added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

1995—Subsec. (d)(3). Pub. L. 104-66 struck out provision at end requiring Secretary to report to Congress on status of negotiations with owners of non-Federal lands regarding land exchanges.

PUBLICATION OF NOTICE

Pub. L. 106-291, title III, §346(c), Oct. 11, 2000, 114 Stat. 1000, provided that:

“(1) Not later than November 1, 2000, the Secretary of Agriculture shall provide notice of the provisions contained in the amendments made by subsections (a) and (b) [amending this section and section 544f of this title] through—

“(A) publication of a notice in the Federal Register and in newspapers of general circulation in the counties in the Columbia River Gorge National Scenic Area; and

“(B) posting of a notice in each facility of the United States Postal Service located in those counties.

“(2) If the counties wherein special management areas are located provide the Forest Service administrator of the Columbia River Gorge National Scenic Area lists of the names and addresses of landowners within the special management areas as of September 1, 2000, the Forest Service shall send to such names and addresses by certified first class mail notice of the provisions contained in the amendments made by subsections (a) and (b);

“(A) The mailing shall occur within twenty working days of the receipt of the list; and

“(B) The mailing shall constitute constructive notice to landowners, and proof of receipt by the addressee shall not be required.”

CONVEYANCE OF LANDS BETWEEN SKAMANIA COUNTY AND THE UNITED STATES

Pub. L. 105-277, div. A, §101(e) [title III, §341], Oct. 21, 1998, 112 Stat. 2681-231, 2681-296, provided that:

“Upon the condition that Skamania County conveys title acceptable to the Secretary of Agriculture to all right, title and interest in lands identified on a map dated September 29, 1998 entitled ‘Skamania County Lands to be Transferred’, such lands being located on Table Mountain lying within the Columbia River Gorge National Scenic Area, there is hereby conveyed to Skamania County, notwithstanding any other provision of law, the Wind River Nursery Site lands and facilities and all interests therein, except for the corridor of the Pacific Crest National Scenic Trail, as depicted on a map dated September 29, 1998, entitled ‘Wind River Conveyance’, which is on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.

“The conveyance of lands to Skamania County shall become automatically effective upon a determination by the Secretary that Skamania County has conveyed acceptable title to the United States to the Skamania County lands. Lands conveyed to the United States shall become part of the Gifford Pinchot National Forest and shall have the status of lands acquired under the Act of March 1, 1911, (commonly called the Weeks Act) [see Short Title note set out under section 552 of this title] and shall be managed in accordance with the laws and regulations applicable to the National Forest System.”

LAND EXCHANGES

Pub. L. 105-83, title III, §336, Nov. 14, 1997, 111 Stat. 1602, provided that: “To facilitate priority land exchanges through which the United States will receive land within the White Salmon Wild and Scenic River boundaries and within the Columbia River Gorge Na-

tional Scenic Area, the Secretary of Agriculture may, until September 30, 2000, accept title to such lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located, following existing exchange authorities.”

WIND RIVER NURSERY

Pub. L. 105-83, title III, §340, Nov. 14, 1997, 111 Stat. 1603, provided that:

“(a) The Secretary of Agriculture is authorized and directed to negotiate with Skamania County for the exchange of lands or interests in lands constituting the Wind River Nursery Site within the Gifford Pinchot National Forest, Washington.

“(b) In return for the Nursery Site properties, Skamania County is authorized and directed to negotiate with the Forest Service the conveyance of approximately 120 acres of high biodiversity, special management lands located near Table Mountain within the Columbia River Gorge National Scenic Area, title to which must be acceptable to the Secretary of Agriculture.

“(c) Before this exchange can occur, it must be of equal value and the Secretary and the Skamania County Board of Commissioners must agree on the exact parcels of land to be included in the exchange. An agreement signed by the Secretary of Agriculture and the Skamania County Board of Commissioners describing the properties involved and a certification that the exchange is of equal value must be completed no later than September 30, 1999.

“(d) During this two-year negotiating period, the Wind River Nursery property shall not be conveyed to another party. The Forest Service shall maintain the site in a tenable condition.

“(e) Except as provided herein, the exchange shall be for equal value in accordance with land exchange authorities applicable to the National Forest System.

“(f) The Secretary is directed to equalize values by not only cash and exchange of lands, easements, reservations, and other interests in lands, but also by full value credit for such services as Skamania County provides to the Gifford Pinchot and Columbia River Gorge National Scenic Area and as the Secretary and Skamania County deem appropriate. The Secretary may accept services in lieu of cash when the Secretary can discern cash value for the services and when the Secretary determines such services would provide direct benefits to lands and resources and users of such lands and resources under the jurisdiction of the Secretary.

“(g) Any cash equalization which Skamania County elects to make may be made up to 50 percent of the fair market value of the Federal property, and such cash equalization may be made in installments over a period not to exceed 25 years. Payments received as partial consideration shall be deposited into the fund in the Treasury established under the Act of December 4, 1967 [16 U.S.C. 484a], commonly known as the Sisk Act, and shall be available for expenditure as provided in the Act except that the Secretary may not use those funds to purchase lands within Skamania County.

“(h) In defining the Federal estate to be conveyed, the Secretary may require such additional terms and conditions as deemed necessary in connection with assuring equal value and public interest considerations in this exchange including, but not limited to, continued research use of the Wind River Experimental Forest and protection of natural, cultural, and historic resources, existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail.

“(i) This authorization is predicated on Skamania County’s Board of Commissioners commitment to give foremost consideration to preservation of the overall integrity of the site and conservation of the educational and research potential of the site, including providing for access to and assurance of the continued administration and operation of forestry research on the adjacent Thornton Munger Research Natural Area.

“(j) The Secretary is further directed to cooperate with Skamania County to address applicable Federal and State environmental laws.

“(k) Notwithstanding the processes involved with the National Environmental Policy Act [of 1969, 42 U.S.C. 4321 et seq.] and the State Environmental Policy Act, should the Secretary of Agriculture and the Skamania County Board of Commissioners fail to reach an agreement on an equal value exchange defined under the terms of this legislation by September 30, 1999, the Wind River Nursery Site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenable condition.”

§ 544h. Interim management

(a) Interim guidelines

(1)¹ Within one hundred eighty days after November 17, 1986, the Secretary shall develop interim guidelines for the scenic area outside urban areas to identify land use activities which are inconsistent with sections 544 to 544p of this title and to govern the authority to acquire land without the consent of the owner provided by subsection (b) of this section. The Secretary shall promptly notify the public of adoption of the interim guidelines and transmit the guidelines to each county. Guidelines adopted by the Secretary pursuant to this subsection shall remain in effect for each county until the Secretary has developed guidelines for the special management areas pursuant to section 544f of this title and the land use ordinances prescribed by section 544e of this title are in effect.

(b) Interim acquisition authority and injunctive relief

Prior to the concurrence by the Secretary of land use ordinances prescribed by section 544f of this title and the approval by the Commission of land use ordinances prescribed by section 544e of this title, the following authorities are granted:

(1) The Secretary may acquire by condemnation any land or interest which is being used or threatened to be used in a manner inconsistent with the purposes for which the scenic area was established and which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area: *Provided*, That no lands or interests therein can be acquired by condemnation pursuant to this section if used in the same manner and for the same purposes as used on November 17, 1986, unless such land is used for or interest is in the development of sand, gravel, or crushed rock, or the disposal of refuse: *Provided further*, That within thirty days of the filing by the Secretary of a complaint for condemnation of any land or interest in the scenic area, outside of the special management areas and urban areas, the Commission, by a vote of two-thirds of its membership including a majority of the members appointed from each State, or if the Commission is not in existence the Governor of the State in which the land or interest is located, may disapprove such proposed complaint.

(2) Upon or after the commencement of any action for condemnation pursuant to this subsection, the Secretary, acting through the Attorney General of the United States, may

¹ So in original. No par. (2) has been enacted.

apply to the appropriate United States District Court for a temporary restraining order or injunction to prohibit the use of any property within the scenic area, but outside of urban areas, which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation and natural resources of the scenic area or is otherwise inconsistent with the purposes for which the scenic area was established. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that, following termination of the order or injunction, the inconsistent use is abated or the adverse effect is mitigated.

(c) Review of development action

Prior to the effective date of a land use ordinance for each county pursuant to section 544e of this title, and concurrence of the Secretary on a land use ordinance for each county pursuant to section 544f of this title, the Commission shall review all proposals for major development actions and new residential development in such county in the scenic area, except urban areas. The Commission shall allow major development actions and new residential development only if it determines that such development is consistent with the standards contained in section 544d of this title and the purposes of sections 544 to 544p of this title.

(Pub. L. 99-663, §10, Nov. 17, 1986, 100 Stat. 4291.)

CODIFICATION

November 17, 1986, referred to in subsec. (b)(1), was in the original "the effective date of this Act", which was translated as being the date of enactment of Pub. L. 99-663.

§ 544i. Economic development

(a) Economic development plan

Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with sections 544 to 544p of this title.

(b) Funds provided to States for grants

Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide \$5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of sections 544 to 544p of this title.

(c) Conditions of grants

Each State making grants under this section shall require as a condition of a grant that—

- (1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of sections 544 to 544p of this title, the management plan, and land use ordinances adopted pursuant to sections 544 to 544p of this title;
- (2) grants and loans are not used to relocate a business from one community to another;
- (3) grants and loans are not used for program administration; and

(4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.

(d) Report

Each State shall—

- (1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;
- (2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and
- (3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

(Pub. L. 99-663, §11, Nov. 17, 1986, 100 Stat. 4292.)

§ 544j. Old Columbia River Highway

The Oregon Department of Transportation shall, in consultation with the Secretary and the Commission, the State of Oregon and the counties and cities in which the Old Columbia River Highway is located, prepare a program and undertake efforts to preserve and restore the continuity and historic integrity of the remaining segments of the Old Columbia River Highway for public use as a Historic Road, including recreation trails to connect intact and usable segments.

(Pub. L. 99-663, §12, Nov. 17, 1986, 100 Stat. 4293.)

§ 544k. Tributary rivers and streams

(a) Water resources projects

The following rivers and streams shall be subject to the same restrictions on the licensing, permitting, and exempting from licensing and the construction of water resource projects as provided for components of the National Wild and Scenic Rivers System pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):

- (1) any tributary river or stream to the Columbia River not designated in subsections¹ (c) or (d) of this section or otherwise specified in this subsection which flows in whole or in part through a special management area, unless the construction of a water resources project would not have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the scenic area;
- (2) any river or river segment which flows in whole or in part through the scenic area and which is established pursuant to State law as a wild, scenic, or recreation river or which is under study pursuant to State law for the potential inclusion in any such State protected river system, unless such project or projects meet terms and conditions set by State agencies exercising administration over such river or river segment;
- (3) the Wind River, Washington, for a period not less than three years following the later of—

¹ So in original. Probably should be "subsection".

(A) final approval of the Gifford Pinchot National Forest Plan, adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended) (16 U.S.C. 1600 et seq.); or

(B) submittal by the Secretary of a report to the President on the suitability or non-suitability for addition to the national wild and scenic rivers system and a report by the President to the Congress of recommendations and proposals with respect to the designation of such river under the Wild and Scenic Rivers Act [16 U.S.C. 1271 et seq.];

(4) the Hood River, Oregon, if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986; and

(5) the segment of the Little White Salmon, Washington, from the Willard National Fish Hatchery to its confluence with the Columbia River if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986.

(b) Exceptions

The provisions of subsection (a) of this section shall not apply to those portions of tributary rivers or streams to the Columbia River which flow through or border on Indian reservations. Nothing in this section shall apply to or affect any segment of any river designated as a wild and scenic river under section 3 of the Wild and Scenic Rivers Act (16 U.S.C. 1274) or any river designated for study under section 5 of such Act (16 U.S.C. 1276).

(Pub. L. 99-663, §13(a), (b), Nov. 17, 1986, 100 Stat. 4293, 4294; Pub. L. 111-11, title I, §1203(b), Mar. 30, 2009, 123 Stat. 1012.)

REFERENCES IN TEXT

Subsection (c) or (d) of this section, referred to in subsec. (a)(1), is subsec. (c) or (d) of section 13 of Pub. L. 99-663, Nov. 17, 1986, 100 Stat. 4294, which amended sections 1274(a) and 1276(a), respectively, of this title.

The National Forest Management Act of 1976, referred to in subsec. (a)(3)(A), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Wild and Scenic Rivers Act, referred to in subsec. (a)(3)(B), is Pub. L. 90-542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

CODIFICATION

Section 13 of Pub. L. 99-663, which enacted this section, consisted of subsecs. (a) to (d). Subsecs. (a) and (b) of section 13 were classified to this section, and subsecs. (c) and (d) of section 13 amended sections 1274 and 1276 of this title, respectively.

AMENDMENTS

2009—Subsec. (a)(4). Pub. L. 111-11 struck out “for a period not to exceed twenty years from November 17, 1986,” before “if such facility”.

§ 544I. Implementation measures

(a) Assistance to counties

The Secretary shall provide technical assistance on a nonreimbursable basis to counties for the development of land use ordinances prescribed by sections 544e and 544f of this title: *Provided*, That in the event a county fails to obtain approval by the Commission for a land use ordinance within three years after the date technical assistance is first provided under this subsection for the development of a land use ordinance, the Secretary shall terminate all technical assistance for any participation in the development of such ordinance.

(b) Payment of timber receipts

(1) Notwithstanding the provisions of section 500 of this title, that portion of which is paid under such provisions to the State of Oregon with respect to the special management areas within the Mount Hood National Forest, the Gates of the Columbia Gorge Special Management Area, Mount Hood National Forest, and to the State of Washington with respect to the special management areas within the Gifford Pinchot National Forest—

(A) not less than 50 per centum shall be expended for the benefit of the public schools of the county which has adopted implementation measures pursuant to sections 544 to 544p of this title; and

(B) the remainder shall be expended for the benefit of public roads or any public purposes of any county which has adopted implementation measures pursuant to sections 544 to 544p of this title.

(2) Paragraph (1) of this subsection shall not apply—

(A) to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (b)(1) of this section at the end of any fiscal year ending before November 17, 1986; or

(B) for a particular county, if the county does not have in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.

(c) Payments to local governments

(1) Subject to section 544n(b) of this title, in the case of any land or interest therein acquired by the Secretary pursuant to section 544g of this title, which was subject to local real property taxes within the five years preceding such acquisition and which is located in a county which has in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title, the Secretary is authorized and directed to make annual payments to the county in which such lands are located in an amount equal to 1 per centum of the fair market value of such land or interest therein on the date of acquisition by the Secretary.

(2) Notwithstanding paragraph (1) of this subsection, any payment made for any fiscal year to a county pursuant to this subsection shall not exceed the amount of real property taxes assessed and levied on such property during the

last full fiscal year before the fiscal year in which such land or interest therein was acquired by the Secretary.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no payment shall be made under this subsection with respect to any land or interest therein after the eighth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.

(B) CONTINUATION OF CERTAIN PAYMENTS.—For any land or interest in land for which the Secretary is making a payment in fiscal year 2000, such payment shall be continued for a total of eight fiscal years.

(d) Federal consistency

Except as otherwise provided in subsection (e) of this section or in section 544o of this title, Federal agencies having responsibilities within the scenic area shall exercise such responsibilities consistent with the provisions of sections 544 to 544p of this title as determined by the Secretary.

(e) Limitations on Federal expenditures affecting the scenic area

(1) Except as provided in paragraph (3), if the Commission has not been established pursuant to section 544c of this title within fifteen months after November 17, 1986, or is otherwise disestablished for any reason, no new expenditures or new financial assistance may be made available, and no new license or new permit, or exemption from a license or permit requirement, shall be issued, under authority of any Federal law for any activity within the scenic area, excluding urban areas, which the Secretary,¹ determines is inconsistent with any implementation measure pursuant to, the standards established in section 544d(b) of this title, or the purposes of sections 544 to 544p of this title.

(2)(A)(i) An expenditure or financial assistance made available under authority of Federal law shall be treated, for purposes of this subsection, as a new expenditure or new financial assistance if—

(I) in any case with respect to which specific appropriations are required, no money for construction or purchase was appropriated before October 1, 1986; or

(II) no legally binding commitment for the expenditure or financial assistance was made before October 1, 1986.

(ii) Payments made to the State pursuant to the following Acts shall not be treated as an expenditure or financial assistance for purposes of this subsection: section 500 of this title; the Mineral Lands Leasing Act of 1920 [30 U.S.C. 181 et seq.]; chapter 69 of title 31 (relating to payments in lieu of taxes for entitlement land); the Act of June 9, 1916 (39 Stat. 218), and the Act of Feb. 26, 1919 (40 Stat. 1179).

(B) A license or permit, or exemption from a license or permit requirement, shall be treated, for purposes of this subsection, as a new license or new permit, or exemption from a license or

permit requirement, if such license or permit, or exemption from a license or permit requirement, was issued on or after October 1, 1986. A renewal under similar terms and conditions of a license or permit, or exemption from a license or permit requirement, issued before October 1, 1986, shall not be treated as a new license or new permit, or exemption from a license or permit requirement.

(3) Notwithstanding paragraph (1), the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the area for any of the following:

(A) The maintenance of existing channel improvements and related structures, and including the disposal of dredge materials related to such improvements.

(B) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

(C) Military activities essential to national security.

(D) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the standards in section 544d(b) of this title and the purposes of sections 544 to 544p of this title:

(i) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(ii) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(iii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

(v) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146)² and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103)² and are limited to actions that are necessary to alleviate the emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities. This clause shall not apply to roads, structures, or facilities referred to in paragraph (3)(B).

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

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

² See References in Text note below.

(4) The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this subsection during each fiscal year beginning after September 30, 1987. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

(5) Nothing contained in this subsection shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person or any obligation imposed by any law of any State, or political subdivision of a State. No provision of this subsection shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This subsection shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

(f) Transfer of public lands

Subject to valid existing rights, all public lands within the scenic area administered by the Secretary of the Interior through the Bureau of Land Management are hereby transferred without consideration to the jurisdiction of the Secretary to be managed as National Forest lands in accordance with the provisions of sections 544 to 544p of this title.

(Pub. L. 99-663, §14, Nov. 17, 1986, 100 Stat. 4294; Pub. L. 106-291, title III, §346(e), Oct. 11, 2000, 114 Stat. 1000.)

REFERENCES IN TEXT

The Mineral Lands Leasing Act of 1920, referred to in subsec. (e)(2)(A)(ii), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Act of June 9, 1916, referred to in subsec. (e)(2)(A)(ii), is act June 9, 1916, ch. 137, 39 Stat. 218, which is not classified to the Code.

Act of Feb. 26, 1919, referred to in subsec. (e)(2)(A)(ii), is act Feb. 26, 1919, ch. 47, 40 Stat. 1179, which is not classified to the Code.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (e)(3)(D)(iii), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§4601-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601-4 of this title and Tables.

The Coastal Zone Management Act of 1972, referred to in subsec. (e)(3)(D)(iii), is title III of Pub. L. 89-454 as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

The Disaster Relief Act of 1974, referred to in subsec. (e)(3)(D)(v), was renamed The Robert T. Stafford Disaster Relief and Emergency Assistance Act, and was substantially revised by Pub. L. 100-707, Nov. 23, 1988, 102

Stat. 4689. Section 102(b) of Pub. L. 100-707 provided that a reference in any other law to a provision of the Disaster Relief Act of 1974 shall be deemed to be a reference to such provision of The Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act was renamed the Robert T. Stafford Disaster Relief and Emergency Assistance Act by Pub. L. 106-390, title III, §301, Oct. 30, 2000, 114 Stat. 1572. Section 105(d) of Pub. L. 100-707 repealed sections 305 and 306 of the Act (42 U.S.C. 5145 and 5146) and redesignated sections 308 and 309 of the Act (42 U.S.C. 5148 and 5149), and any references thereto, as sections 305 and 306, respectively. For corresponding provisions to former sections 305 and 306 of the Act, see sections 5170a, 5170b, and 5192 of Title 42, The Public Health and Welfare.

Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103), referred to in subsec. (e)(3)(D)(v), was repealed by Pub. L. 103-325, title V, §551(a), Sept. 23, 1994, 108 Stat. 2269.

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (e)(4), is Pub. L. 93-344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

AMENDMENTS

2000—Subsec. (c)(3). Pub. L. 106-291 inserted par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, substituted “Except as provided in subparagraph (B), no payment” for “No payment”, substituted “eighth full fiscal year” for “fifth full fiscal year”, and added subpar. (B).

§ 544m. Enforcement

(a) Administrative remedies

(1) Commission orders

The Commission shall monitor activities of counties pursuant to sections 544 to 544p of this title and shall take such actions as it determines are necessary to ensure compliance.

(2) Appeal to the Commission

Any person or entity adversely affected by any final action or order of a county relating to the implementation of sections 544 to 544p of this title may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated, or set aside.

(3) Civil penalties

Any person or entity who willfully violates the management plan or any land use ordinance or any implementation measure or any order issued by the Commission pursuant to sections 544 to 544p of this title may be assessed a civil penalty by the Commission not to exceed \$10,000 for each violation. No penalty may be assessed under this subsection unless such person or entity is given notice and opportunity for a public hearing with respect to such violation. The Commission may compromise, modify, or remit, with or without conditions, any penalty imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the violator to remedy the violation in a timely manner.

(b) Judicial remedies**(1) Civil actions to enforce sections 544 to 544p of this title**

(A) Except as otherwise limited by sections 544 to 544p of this title, the Attorney General of the United States may, at the request of the Secretary, institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the special management areas in violation of the provisions of sections 544 to 544p of this title, interim guideline adopted or other action taken by the Secretary pursuant to sections 544 to 544p of this title.

(B) The Commission, or, at the request of the Commission, or the attorney general of Oregon or Washington, may institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the scenic area outside urban areas in violation of the provisions of sections 544 to 544p of this title, the management plan, or any land use ordinance or interim guideline adopted or other action taken by the Commission or any county pursuant to sections 544 to 544p of this title.

(2) Citizens suits

Any person or entity adversely affected may commence a civil action to compel compliance with sections 544 to 544p of this title—

(A) against the Secretary, the Commission or any county where there is alleged a violation of the provisions of sections 544 to 544p of this title, the management plan or any land use ordinance or interim guideline adopted or other action taken by the Secretary, the Commission, or any county pursuant to or Commission¹ under sections 544 to 544p of this title; or

(B) against the Secretary, the Commission, or any county where there is alleged a failure of the Secretary, the Commission or any county to perform any act or duty under sections 544 to 544p of this title which is not discretionary with the Secretary, the Commission or any county.

(3) Limitation on bringing of citizens suits

No action may be commenced—

(A) under paragraph (2)(A) of this subsection—

(i) prior to sixty days after the plaintiff has given notice in writing of the alleged violation to the Secretary, to the Commission, and to the county in which the violation is alleged to have occurred; or

(ii) if the Attorney General of the United States, or the attorney general of Oregon or Washington, has commenced and is diligently prosecuting a civil action on the same matter pursuant to paragraph (1) of this subsection to require compliance with the management plan or any regulations, guidelines, or standards issued or other actions taken by the Secretary, the Commission, or any county pursuant to sections 544 to 544p of this title: *Provided*, That in

any such action any person or entity otherwise entitled to bring an action pursuant to paragraph (2) of this subsection may intervene as a matter of right; or

(iii) which challenges the consistency of the draft management plan with the purposes and standards of sections 544 to 544p of this title or with other applicable law prior to the certification or adoption of the Management Plan pursuant to section 544d of this title; or

(B) under paragraph (2)(B) of this subsection prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, the Commission, and to the county in which the failure to perform any act or duty pursuant to sections 544 to 544p of this title is alleged: *Provided*, That such action may be brought immediately after such notification where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(4) Judicial review

Any person or entity adversely affected by—

(A) any final action or order of a county, the Commission, or the Secretary relating to the implementation of sections 544 to 544p of this title;

(B) any land use ordinance or interim guideline adopted pursuant to sections 544 to 544p of this title;

(C) any appeal to the Commission pursuant to this section;

(D) any civil penalty assessed by the Commission pursuant to paragraph (a)(3) of this subsection may appeal such action or order by filing in any of the courts specified in paragraph (5) of this subsection, within sixty days after the date of service of such order or within sixty days after such action is taken, a written petition requesting such action, order, land use ordinance, interim guideline, or appeal taken to the Commission be modified, terminated, or set aside.

(5) Federal court jurisdiction

The United States district courts located in the States of Oregon and Washington shall have jurisdiction over—

(A) any criminal penalty imposed pursuant to section 551 of this title, or any other applicable law for violation of any order, regulation or other action taken by the Secretary pursuant to sections 544 to 544p of this title;

(B) any civil action brought against the Secretary pursuant to this section; or

(C) any appeal of any order, regulation, or other action of the Secretary taken pursuant to paragraph (4) of this subsection.

(6) State court jurisdiction

The State courts of the States of Oregon and Washington shall have jurisdiction—

(A) to review any appeals taken to the Commission pursuant to subsection (a)(2) of this section;

(B) over any civil action brought by the Commission pursuant to subsection (b)(1) of

¹ So in original. The word "Commission" probably should not appear.

this section or against the Commission, a State, or a county pursuant to subsection (b)(2) of this section;

(C) over any appeal of any order, regulation, or other action of the Commission or a county taken pursuant to paragraph 4² of this subsection; or

(D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

(Pub. L. 99-663, § 15, Nov. 17, 1986, 100 Stat. 4297.)

§ 544n. Authorization of appropriations

(a) General authorizations

There are authorized to be appropriated for fiscal years after the fiscal year 1986 such sums as are described below;¹

(1) For the purpose of acquisition of lands, water and interests therein pursuant to sections 544 to 544p of this title: \$40,000,000: *Provided*, That of this amount no more than \$10,000,000 shall be available to acquire lands, water, and interests therein pursuant to section 544h of this title. Such amounts are authorized to be appropriated from amounts covered into the Land and Water Conservation Fund notwithstanding any allocation, apportionment, or limitation contained in the Land and Water Conservation Fund (16 U.S.C. 460l-4 and following).

(2) For the purpose of providing payments to local governments pursuant to section 544i(c) of this title: \$2,000,000.

(b) Specific authorizations

There are authorized to be appropriated for fiscal years after the fiscal year 1986, effective upon concurrence on the management plan pursuant to section 544d of this title:

(1) For the purpose of construction of an interpretive center to be located in the State of Oregon, and a conference center to be located in the State of Washington: \$10,000,000.

(2) For the purpose of construction of recreation facilities pursuant to section 544e(d) of this title: \$10,000,000.

(3) For the purpose of preparing a program and restoring and reconstructing the Old Columbia River Scenic Highway, Oregon pursuant to section 544j of this title: \$2,800,000.

(4) For the purpose of providing economic development grants pursuant to section 544i of this title: \$5,000,000 for each State: *Provided*, That funds authorized to be appropriated pursuant to this paragraph shall be available for the acquisition of lands and interests therein pursuant to section 544h of this title if, at the expiration of three years, the States have failed to carry out their respective function pursuant to section 544c of this title.

(c) Availability of funds

Funds appropriated under subsections (a)(2) and (b) of this section shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission, and concurred on by the Secretary as consistent with

the management plan pursuant to section 544f of this title.

(Pub. L. 99-663, § 16, Nov. 17, 1986, 100 Stat. 4300.)

REFERENCES IN TEXT

The Land and Water Conservation Fund (16 U.S.C. 460l-4 and following), referred to in subsec. (a)(1), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460l-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460l-4 of this title and Tables.

§ 544o. Savings provisions

(a) Effect on rights of Indians, use of water, rivers and streams, interstate compacts, existing transmission facilities, hunting and fishing, forest plans, scenic areas

Nothing in sections 544 to 544p of this title shall—

(1) affect or modify any treaty or other rights of any Indian tribe;

(2) except as provided in section 13(c), authorize the appropriation or use of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual;

(3) except as provided in section 13(c), affect the rights or jurisdictions of the United States, the States, Indian tribes or other entities over waters of any river or stream or over any ground water resource or affect or interfere with transportation activities on any such river or stream;

(4) except as provided in section 13(c), alter, establish, or affect the respective rights of the United States, the States, Indian tribes, or any person with respect to any water or water-related right;

(5) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States before November 17, 1986;

(6) affect or modify the ability of the Bonneville Power Administration to operate, maintain, and modify existing transmission facilities;

(7) affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes;

(8) affect the laws, rules and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties;

(9) require any revision or amendment of any forest plan adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended (16 U.S.C. 1600 et seq.)); or

(10) establish protective perimeters or buffer zones around the scenic area or each special management area. The fact that activities or uses inconsistent with the management directives for the scenic area or special management areas can be seen or heard from these areas shall not, of itself, preclude such activities or uses up to the boundaries of the scenic area or special management areas.

² So in original. Probably should be paragraph "(4)".

¹ So in original. The semicolon probably should be a colon.

(b) Improvement of navigation facilities at Bonneville Dam

Except for the offsite disposal of excavation material, nothing in sections 544 to 544p of this title shall be construed to affect or modify the responsibility of the United States Army Corps of Engineers to improve navigation facilities at Bonneville Dam pursuant to Federal law.

(c) Rights and responsibilities of non-Federal timber land owners

Except for the management, utilization, or disposal of timber resources of non-Federal lands within the special management areas, nothing in sections 544 to 544p of this title shall affect the rights and responsibilities of non-Federal timber land owners under the Oregon and Washington Forest Practices Acts or any county regulations which under applicable State law supersede such Acts.

(d) Interstate compacts

Mandatory language in sections 544 to 544p of this title respecting the powers and responsibilities of the Commission shall be interpreted as conditions precedent to congressional consent to the interstate compact described in section 544c of this title.

(e) Failure to establish Columbia River Gorge Commission; responsibility of Secretary

In the event that the States of Washington and Oregon fail to comply with the provisions of section 544c of this title, the Secretary shall not be obligated to take actions which are predicated upon the establishment of the Commission.

(f) Actions of Secretary as major Federal actions affecting the environment

(1) Actions by the Secretary pursuant to subsections (f), (g), and (h) of section 544d of this title; subsections (f), (j), (k), and (l) of section 544f of this title; section 544g of this title; and subsections (a) and (b)(2) of section 544h of this title shall neither be considered major Federal actions significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act [42 U.S.C. 4321 et seq.].

(2) Except as provided in paragraph (1) of this subsection, nothing in sections 544 to 544p of this title shall expand, restrict, or otherwise alter the duties of the Secretary under the National Environmental Policy Act.

(Pub. L. 99-663, §17, Nov. 17, 1986, 100 Stat. 4300.)

REFERENCES IN TEXT

Section 13(c), referred to in subsec. (a)(2) to (4), is section 13(c) of Pub. L. 99-663, Nov. 17, 1986, 100 Stat. 4294, which amended section 1274(a) of this title.

The National Forest Management Act of 1976, referred to in subsec. (a)(9), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

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

§ 544p. Severability

(a)¹ If any provision of sections 544 to 544p of this title or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of sections 544 to 544p of this title, nor the application of any provisions herein to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

(Pub. L. 99-663, §18, Nov. 17, 1986, 100 Stat. 4302.)

§ 545. Mount Pleasant National Scenic Area; purposes

The purposes of sections 545 and 545a of this title with respect to the Mount Pleasant National Scenic Area are to—

(1) ensure appropriate protection and preservation of the scenic quality, water quality, natural characteristics, and water resources;

(2) protect and manage vegetation to provide wildlife and fish habitat, consistent with paragraph (1);

(3) provide areas that may develop characteristics of old-growth forests; and

(4) provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

(Pub. L. 103-314, §2, Aug. 26, 1994, 108 Stat. 1703; Pub. L. 104-127, title IX, §915, Apr. 4, 1996, 110 Stat. 1187.)

AMENDMENTS

1996—Pub. L. 104-127 substituted “Mount Pleasant National Scenic Area” for “George Washington National Forest Mount Pleasant Scenic Area” in introductory provisions.

SHORT TITLE

Section 1 of Pub. L. 103-314, as amended by Pub. L. 104-127, title IX, §915, Apr. 4, 1996, 110 Stat. 1187, provided that: “This Act [enacting sections 545 and 545a of this title] may be cited as the ‘Mount Pleasant National Scenic Area Act’.”

§ 545a. Establishment of Mount Pleasant National Scenic Area

(a) In general

(1) Establishment

There is hereby established in the George Washington National Forest, Virginia, the Mount Pleasant National Scenic Area (in this section referred to as the “scenic area”).

(2) Lands included in scenic area

The scenic area shall consist of certain lands in the George Washington National Forest, Virginia, which comprise approximately seven thousand five hundred and eighty acres, as generally depicted on a map entitled “Mount Pleasant National Scenic Area—Proposed”, dated June 21, 1993.

¹ So in original. No subsec. (b) has been enacted.

(3) Maps and descriptions

As soon as practicable after August 26, 1994, the Secretary shall file a map and boundary description of the scenic area with the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. The map and description shall have the same force and effect as if included in sections 545 and 545a of this title, except that the Secretary is authorized to correct clerical and typographical errors in such boundary description and map. Such map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture. In the case of any discrepancy between the acreage and the map described in paragraph (2), the map shall control.

(b) Administration**(1) In general**

The Secretary of Agriculture (in this section referred to as the "Secretary") shall administer the scenic area in accordance with sections 545 and 545a of this title and the laws and regulations generally applicable to the National Forest System. In the event of conflict between sections 545 and 545a of this title and other laws and regulations, sections 545 and 545a of this title shall take precedence.

(2) Management plan

Within three years after August 26, 1994, the Secretary shall develop a management plan for the scenic area as an amendment to the Land and Resource Management Plan for the George Washington National Forest. Such an amendment shall conform to the provisions of sections 545 and 545a of this title. Nothing in sections 545 and 545a of this title shall require the Secretary to revise the Land and Resource Management Plan for the George Washington National Forest pursuant to section 1604 of this title.

(c) Roads

After August 26, 1994, no new permanent roads shall be constructed within the scenic area, except that this prohibition shall not be construed to deny access to private lands or interests therein in the scenic area.

(d) Vegetation management

No timber harvest shall be allowed within the scenic area, except as may be necessary in the control of fire, insects, and diseases and to provide for public safety and trail access. Notwithstanding the foregoing, the Secretary may engage in vegetation manipulation practices for maintenance of existing wildlife clearings and visual quality. Firewood may be harvested for personal use along perimeter roads under such conditions as the Secretary may impose.

(e) Motorized travel**(1) Authorized routes**

Motorized travel in the scenic area shall be allowed on State Route 635. Subject to such conditions as the Secretary may impose, motorized travel in the scenic area shall also be allowed on Forest Development Road 51.

(2) Other areas

Other than as provided in paragraph (1), motorized travel shall not be permitted within the scenic area, except that the Secretary may authorize motorized travel within the scenic area as necessary for administrative use in furtherance of the purposes of sections 545 and 545a of this title and on temporary routes in support of wildlife management projects.

(f) Fire

Wildfires shall be suppressed in a manner consistent with the purposes of sections 545 and 545a of this title, using such means as the Secretary considers appropriate.

(g) Insects and disease

Insect and disease outbreaks may be controlled in the scenic area to maintain scenic quality, prevent tree mortality, reduce hazards to visitors, or protect private lands.

(h) Water

The scenic area shall be administered so as to maintain or enhance existing water quality.

(i) Mining withdrawal

Subject to valid existing rights, all federally owned lands in the scenic area are hereby withdrawn from location, entry, and patent under the mining laws of the United States and from leasing claims under the mineral and geothermal leasing laws of the United States, including amendments to such laws.

(Pub. L. 103-314, §3, Aug. 26, 1994, 108 Stat. 1703; Pub. L. 104-127, title IX, §915, Apr. 4, 1996, 110 Stat. 1187.)

REFERENCES IN TEXT

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (i), are classified generally to Title 30, Mineral Lands and Mining.

The geothermal leasing laws of the United States, referred to in subsec. (i), are classified principally to chapter 23 (§1001 et seq.) of Title 30.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-127 substituted "Mount Pleasant National Scenic Area" for "George Washington National Forest Mount Pleasant Scenic Area".

§ 545b. Opal Creek Wilderness and Scenic Recreation Area**(a) Definitions**

In this section:

(1) Bull of the Woods Wilderness

The term "Bull of the Woods Wilderness" means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98-328; 16 U.S.C. 1132 note).

(2) Opal Creek Wilderness

The term "Opal Creek Wilderness" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996.

(3) Scenic Recreation Area

The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area, com-

prising approximately 13,000 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996 and established under subsection (c)(1)(C) of this section.

(4) Secretary

The term "Secretary" means the Secretary of Agriculture.

(b) Purposes

The purposes of this section are—

(1) to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic and cultural resources of the area in the vicinity of Opal Creek;

(2) to protect and support the economy of the communities of the Santiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the North Santiam River.

(c) Establishment

(1) Establishment

On a determination by the Secretary under paragraph (2)—

(A) the Opal Creek Wilderness, as depicted on the map described in subsection (a)(2) of this section, is hereby designated as wilderness, subject to the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.], shall become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(B) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(C) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map described in subsection (a)(3) of this section.

(2) Conditions

The designations in paragraph (1) shall not take effect unless the Secretary makes a determination, not later than 2 years after November 12, 1996, that the following conditions have been met:

(A) the following have been donated to the United States in an acceptable condition and without encumbrances:

(i) all right, title, and interest in the following patented parcels of land—

(I) Santiam Number 1, mineral survey number 992, as described in patent number 39-92-0002, dated December 11, 1991;

(II) Ruth Quartz Mine Number 2, mineral survey number 994, as described in patent number 39-91-0012, dated February 12, 1991;

(III) Morning Star Lode, mineral survey number 993, as described in patent number 36-91-0011, dated February 12, 1991;

(ii) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in sec-

tion 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(iii) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36-91-0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(B) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(i) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39-91-0012, dated February 12, 1991.

(3) Additions to the wilderness and scenic recreation areas

(A) Lands or interests in lands conveyed to the United States under this subsection shall be included in and become part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(B) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, commonly known as the Rosboro section by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(C) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Time Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

(d) Administration

(1) In general

The Secretary shall administer the Scenic Recreation Area in accordance with this section and the laws (including regulations) applicable to the National Forest System.

(2) Opal Creek Management Plan

(A) In general

Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under subsection (e)(1) of this section, shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(B) Incorporation in land and resource management

Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in such land and resource management plan. Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act [16 U.S.C. 1531 et seq.] or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(C) Requirements

The Opal Creek Management Plan shall provide for a broad range of land uses, including—

- (i) recreation;
- (ii) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and
- (iii) educational and research opportunities.

(D) Plan amendments

The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this section.

(3) Cultural and historic resource inventory**(A) In general**

Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98-328).

(B) Interpretation

Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(4) Transportation planning**(A)¹ In general**

Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area. To maintain reasonable motorized and other access to recreation sites and facilities in existence on November 12, 1996, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that—

- (i) evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads should be closed;
- (ii) provides guidelines for transportation and access consistent with this section;
- (iii) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;

tation plan for the Scenic Recreation Area;

(iv) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in subsection (a)(2) of this section, to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and

(v) restricts construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon November 12, 1996, which shall not include paving or widening.

In order to comply with subsection (f)(2) of this section, the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on November 12, 1996.

(5) Hunting and fishing**(A) In general**

Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(B) Limitation

The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment of the Scenic Recreation Area.

(C) Consultation

Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(6) Timber cutting**(A) In general**

Subject to subparagraph (B), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Reservation Area.

(B) Permitted cutting**(i) In general**

Subject to clause (ii), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

- (I) for public safety, such as to control the continued spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;
- (II) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or
- (III) for removal of hazard trees along trails and roadways.

(ii) Salvage sales

The Secretary may not allow a salvage sale in the Scenic Recreation Area.

¹ So in original. No subpar. (B) has been enacted.

(7) Withdrawal

(A)² subject³ to valid existing rights, all lands in the Scenic Recreation Area are withdrawn from—

- (i) any form of entry, appropriation, or disposal under the public lands laws;
- (ii) location, entry, and patent under the mining laws; and
- (iii) disposition under the mineral and geothermal leasing laws.

(8) Bornite Project

(A) Nothing in this section shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection (a)(3) of this section, conducted in accordance with applicable laws.

(B) Nothing in this section shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(C) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(D) After November 12, 1996, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(9) Water impoundments

Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of paragraph (8) with regard to the Bornite Project.

(10) Recreations**(A) Recognition**

Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(B) Minimum levels

The management plan shall permit recreation activities at not less than the levels in existence on November 12, 1996.

(C) Higher levels

The management plan may provide for levels of recreation use higher than the levels in existence on November 12, 1996, if such uses are consistent with the protection of the resource values of the Scenic Recreation Area.

(D) Public trail access

The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Ax Creek, Opal Pool and other areas

in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(11) Participation

So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(A) Advisory council

The Secretary shall consult on a periodic and regular basis with the advisory council established under subsection (e) of this section with respect to matters relating to management of the Scenic Recreation Area.

(B) Public participation

The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(C) Other agencies

The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(D) Nonprofit agencies and organizations

The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

(e) Advisory council**(1) Establishment**

Not later than 90 days after the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(2) Membership

The advisory council shall consist of not more than 13 members, of whom—

(A) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(B) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon;

(C) 1 member shall represent the City of Salem, and shall be designated by the mayor of Salem, Oregon;

(D) 1 member from a city within a 25-mile radius of the Opal Creek Scenic Recreation Area, to be designated by the Governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25-mile radius of the Opal Creek Scenic Recreation Area; and

(E) not more than 9 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek

² So in original. No subpar. (B) has been enacted.

³ So in original. Probably should be capitalized.

Wilderness and Scenic Recreation Area, economic development interests and Indian tribes.

(3) Staggered terms

Members of the advisory council shall serve for staggered terms of 3 years.

(4) Chairman

The Secretary shall designate 1 member of the advisory council as chairman.

(5) Vacancies

The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(6) Compensation

Members of the advisory council shall receive no compensation for their service on the advisory council.

(f) General provisions

(1) Land acquisition

(A) In general

Subject to the other provisions of this section, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this section.

(B) Public land

Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(C) Condemnation

Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(i) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on November 12, 1996; and

(ii) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title⁴ or the management plan prepared under subsection (d)(2) of this section.

(D) Construction

Nothing in this section shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(2) Environmental response actions and cost recovery

(A) Response actions

Nothing in this section shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in con-

nection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) Liability

Nothing in this section shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(3) Maps and description

(A) In general

As soon as practicable after November 12, 1996, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) Force and effect

The boundary description and map shall have the same force and effect as if the description and map were included in this section, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(C) Availability

The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(4) Savings provision

Nothing in this section shall interfere with activity for which a special use permit has been issued, has not been revoked, and has not expired, before November 12, 1996, subject to the terms of the permit.

(g) Rosboro land exchange

(1) Authorization

Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this subsection as “Rosboro”) offers and conveys marketable title to the United States to the land described in paragraph (2), the Secretary of Agriculture shall convey all right, title and interest held by the United States to sufficient lands described in paragraph (3) to Rosboro, in the order in which they appear in this subsection, as necessary to satisfy the equal value requirements of paragraph (4).

(2) Land to be offered by Rosboro

The land referred to in paragraph (1) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(3) Land to be conveyed by the United States

The land referred to in paragraph (1) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be equal value under paragraph (4):

⁴So in original. Probably should be “section”.

- (A) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);
- (B) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);
- (C) Section 13, Township 17 South, Range 4 East, S½SE¼ (80 acres);
- (D) Section 2, Township 17 South, Range 4 East, SW¼SW¼ (40 acres);
- (E) Section 2, Township 17 South, Range 4 East, NW¼SE¼ (40 acres);
- (F) Section 8, Township 17 South, Range 4 East, SE¼SW¼ (40 acres);
- (G) Section 11, Township 17 South, Range 4 East, W½NW¼ (80 acres);⁵

(4) Equal value

The land and interests in land exchanged under this subsection shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 1716(d) of title 43, and other applicable law. The appraisal shall consider access costs for the parcels involved.

(5) Timetable

(A) The exchange directed by this subsection shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in paragraph (2) to the United States.

(B) The authority provided by this subsection shall lapse of⁶ Rosboro fails to offer the land described in paragraph (2) within 2 years after November 12, 1996.

(6) Challenge

Rosboro shall have the right to challenge in the United States District Court for the District of Oregon a determination of marketability under paragraph (1) and a determination of value for the lands described in paragraphs (2) and (3) by the Secretary of Agriculture. The court shall have the authority to order the Secretary to complete the transaction contemplated in this subsection.

(7) Authorization of appropriations

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

(h) Omitted

(i) Economic development

(1) Economic development plan

As a condition for receiving funding under paragraph (2), the State of Oregon, in consultation with Marion County, Oregon, and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this subsection may be used in a manner consistent with this section and to benefit local communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(2) Funds provided to the States for grants

Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in paragraph (1), the Secretary shall provide, subject to appropriations, \$15,000,000 to the State of Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this section and benefit the local communities in the vicinity of the Opal Creek area.

(3) Report

The State of Oregon shall—

(A) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this subsection;

(B) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this subsection; and

(C) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

(Pub. L. 104-333, div. I, title X, §1023, Nov. 12, 1996, 110 Stat. 4215; Pub. L. 106-176, title I, §125, Mar. 10, 2000, 114 Stat. 30.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (c)(1)(A), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Endangered Species Act, referred to in subsec. (d)(2)(B), probably means the Endangered Species Act of 1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Forest Management Act, referred to in subsec. (d)(2)(B), probably means the National Forest Management Act of 1976, Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Oregon Wilderness Act of 1984, referred to in subsec. (d)(3)(A), is Pub. L. 98-328, June 26, 1984, 98 Stat. 272, which enacted subchapter C (§46000) of chapter 1 of this title and provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Power Act, referred to in subsec. (d)(9), is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (f)(2)(A), is Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

CODIFICATION

Section is comprised of section 1023 of Pub. L. 104-333. Subsec. (c)(1)(A) of section 1023 of Pub. L. 104-333 also

⁵ So in original. The semicolon probably should be a period.

⁶ So in original. Probably should be "if".

enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title. Subsec. (h) of section 1023 of Pub. L. 104-333 amended section 1274 of this title.

Provisions substantially identical to the text of this section were enacted by title I of div. B of Pub. L. 104-208, Sept. 30, 1996, 110 Stat. 3009-523, known as the Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996.

AMENDMENTS

2000—Subsec. (c)(1)(A). Pub. L. 106-176 struck out “of 1964” after “Wilderness Act”.

CHANGE OF NAME

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

SHORT TITLE

Pub. L. 104-208, div. B, title I, § 101, Sept. 30, 1996, 110 Stat. 3009-523, provided that: “This title [see Codification note above] may be cited as the ‘Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996’.”

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 546. Establishment of Saint Helena Island National Scenic Area, Michigan

(a) Purpose

The purposes of sections 546 to 546a-5 of this title are—

- (1) to preserve and protect for present and future generations the outstanding resources and values of Saint Helena Island in Lake Michigan, Michigan; and
- (2) to provide for the conservation, protection, and enhancement of primitive recreation opportunities, fish and wildlife habitat, vegetation, and historical and cultural resources of the island.

(b) Establishment

For the purposes described in subsection (a) of this section, there shall be established the Saint Helena Island National Scenic Area (in sections 546 to 546a-5 of this title referred to as the “scenic area”).

(c) Effective upon conveyance

Subsection (b) of this section shall be effective upon conveyance of satisfactory title to the United States of the whole of Saint Helena Island, except that portion conveyed to the Great Lakes Lighthouse Keepers Association pursuant to section 1001 of the Coast Guard Authorization Act of 1996 (Public Law 104-324; 110 Stat. 3948).

(Pub. L. 106-431, § 2, Nov. 6, 2000, 114 Stat. 1905.)

REFERENCES IN TEXT

Section 1001 of the Coast Guard Authorization Act of 1996, referred to in subsec. (c), is section 1001 of Pub. L.

104-324, title X, Oct. 19, 1996, 110 Stat. 3948, which is not classified to the Code.

SHORT TITLE

Pub. L. 106-431, § 1, Nov. 6, 2000, 114 Stat. 1905, provided that: “This Act [enacting sections 546 to 546a-5 of this title] may be cited as the ‘Saint Helena Island National Scenic Area Act’.”

§ 546a. Boundaries

(a) Saint Helena Island

The scenic area shall comprise all of Saint Helena Island, in Lake Michigan, Michigan, and all associated rocks, pinnacles, islands, and islets within one-eighth mile of the shore of Saint Helena Island.

(b) Boundaries of Hiawatha National Forest extended

Upon establishment of the scenic area, the boundaries of the Hiawatha National Forest shall be extended to include all of the lands within the scenic area. All such extended boundaries shall be deemed boundaries in existence as of January 1, 1965, for the purposes of section 4607-9 of this title.¹

(c) Payments to local governments

Solely for purposes of payments to local governments pursuant to section 6902 of title 31, lands acquired by the United States under sections 546 to 546a-5 of this title shall be treated as entitlement lands.

(Pub. L. 106-431, § 3, Nov. 6, 2000, 114 Stat. 1905.)

REFERENCES IN TEXT

Section 4607-9 of this title, referred to in subsec. (b), was in the original “section 8 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4607-9)” which was translated as if it referred to section 7 of the Land and Water Conservation Fund Act of 1965, to reflect the probable intent of Congress. Section 8 of the Act is classified to section 4607-10 of this title and does not relate to boundaries of National Forests in existence as of January 1, 1965.

§ 546a-1. Administration and management

(a) Administration

Subject to valid existing rights, the Secretary of Agriculture (in sections 546 to 546a-5 of this title referred to as the “Secretary”) shall administer the scenic area in accordance with the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes of sections 546 to 546a-5 of this title.

(b) Special management requirements

Within 3 years of the acquisition of 50 percent of the land authorized for acquisition under section 546a-4 of this title, the Secretary shall develop an amendment to the land and resources management plan for the Hiawatha National Forest which will direct management of the scenic area. Such an amendment shall conform to the provisions of sections 546 to 546a-5 of this title. Nothing in sections 546 to 546a-5 of this title shall require the Secretary to revise the land and resource management plan for the Hiawatha National Forest pursuant to section 1604 of this title. In developing a plan for manage-

¹ See References in Text note below.

ment of the scenic area, the Secretary shall address the following special management considerations:

(1) Public access

Alternative means for providing public access from the mainland to the scenic area shall be considered, including any available existing services and facilities, concessionaires, special use permits, or other means of making public access available for the purposes of sections 546 to 546a-5 of this title.

(2) Roads

After November 6, 2000, no new permanent roads shall be constructed within the scenic area.

(3) Vegetation management

No timber harvest shall be allowed within the scenic area, except as may be necessary in the control of fire, insects, and diseases, and to provide for public safety and trail access. Notwithstanding the foregoing, the Secretary may engage in vegetation manipulation practices for maintenance of wildlife habitat and visual quality. Trees cut for these purposes may be utilized, salvaged, or removed from the scenic area as authorized by the Secretary.

(4) Motorized travel

Motorized travel shall not be permitted within the scenic area, except on the waters of Lake Michigan, and as necessary for administrative use in furtherance of the purposes of sections 546 to 546a-5 of this title.

(5) Fire

Wildfires shall be suppressed in a manner consistent with the purposes of sections 546 to 546a-5 of this title, using such means as the Secretary deems appropriate.

(6) Insects and disease

Insect and disease outbreaks may be controlled in the scenic area to maintain scenic quality, prevent tree mortality, or to reduce hazards to visitors.

(7) Dockage

The Secretary shall provide through concession, permit, or other means docking facilities consistent with the management plan developed pursuant to this section.

(8) Safety

The Secretary shall take reasonable actions to provide for public health and safety and for the protection of the scenic area in the event of fire or infestation of insects or disease.

(c) Consultation

In preparing the management plan, the Secretary shall consult with appropriate State and local government officials, provide for full public participation, and consider the views of all interested parties, organizations, and individuals.

(Pub. L. 106-431, § 4, Nov. 6, 2000, 114 Stat. 1906.)

§ 546a-2. Fish and game

Nothing in sections 546 to 546a-5 of this title shall be construed as affecting the jurisdiction

or responsibilities of the State of Michigan with respect to fish and wildlife in the scenic area.

(Pub. L. 106-431, § 5, Nov. 6, 2000, 114 Stat. 1907.)

§ 546a-3. Minerals

Subject to valid existing rights, the lands within the scenic area are hereby withdrawn from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing. Also subject to valid existing rights, the Secretary shall not allow any mineral development on federally owned land within the scenic area, except that common varieties of mineral materials, such as stone and gravel, may be utilized only as authorized by the Secretary to the extent necessary for construction and maintenance of roads and facilities within the scenic area.

(Pub. L. 106-431, § 6, Nov. 6, 2000, 114 Stat. 1907.)

§ 546a-4. Acquisition

(a) Acquisition of lands within the scenic area

The Secretary shall acquire, by purchase from willing sellers, gift, or exchange, lands, waters, structures, or interests therein, including scenic or other easements, within the boundaries of the scenic area to further the purposes of sections 546 to 546a-5 of this title.

(b) Acquisition of other lands

The Secretary may acquire, by purchase from willing sellers, gift, or exchange, not more than 10 acres of land, including any improvements thereon, on the mainland to provide access to and administrative facilities for the scenic area.

(Pub. L. 106-431, § 7, Nov. 6, 2000, 114 Stat. 1907.)

§ 546a-5. Authorization of appropriations

(a) Acquisition of lands

There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land, interests in land, or structures within the scenic area and on the mainland as provided in section 546a-4 of this title.

(b) Other purposes

In addition to the amounts authorized to be appropriated under subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary for the development and implementation of the management plan under section 546a-1(b) of this title.

(Pub. L. 106-431, § 8, Nov. 6, 2000, 114 Stat. 1907.)

§ 546b. Seng Mountain and Bear Creek Scenic Areas, Jefferson National Forest, Virginia

(a) Establishment

There are designated as National Scenic Areas—

(1) certain National Forest System land in the Jefferson National Forest, comprising approximately 5,192 acres, as generally depicted on the map entitled “Seng Mountain and Raccoon Branch” and dated April 28, 2008, which shall be known as the “Seng Mountain National Scenic Area”; and

(2) certain National Forest System land in the Jefferson National Forest, comprising ap-

proximately 5,128 acres, as generally depicted on the map entitled “Bear Creek” and dated April 28, 2008, which shall be known as the “Bear Creek National Scenic Area”.

(b) Purposes

The purposes of the scenic areas are—

- (1) to ensure the protection and preservation of scenic quality, water quality, natural characteristics, and water resources of the scenic areas;
- (2) consistent with paragraph (1), to protect wildlife and fish habitat in the scenic areas;
- (3) to protect areas in the scenic areas that may develop characteristics of old-growth forests; and
- (4) consistent with paragraphs (1), (2), and (3), to provide a variety of recreation opportunities in the scenic areas.

(c) Administration

(1) In general

The Secretary shall administer the scenic areas in accordance with—

- (A) this subtitle; and
- (B) the laws (including regulations) generally applicable to the National Forest System.

(2) Authorized uses

The Secretary shall only allow uses of the scenic areas that the Secretary determines will further the purposes of the scenic areas, as described in subsection (b).

(d) Management plan

(1) In general

Not later than 2 years after March 30, 2009, the Secretary shall develop as an amendment to the land and resource management plan for the Jefferson National Forest a management plan for the scenic areas.

(2) Effect

Nothing in this subsection requires the Secretary to revise the land and resource management plan for the Jefferson National Forest under section 1604 of this title.

(e) Roads

(1) In general

Except as provided in paragraph (2), after March 30, 2009, no roads shall be established or constructed within the scenic areas.

(2) Limitation

Nothing in this subsection denies any owner of private land (or an interest in private land) that is located in a scenic area the right to access the private land.

(f) Timber harvest

(1) In general

Except as provided in paragraphs (2) and (3), no harvesting of timber shall be allowed within the scenic areas.

(2) Exceptions

The Secretary may authorize harvesting of timber in the scenic areas if the Secretary determines that the harvesting is necessary to—

- (A) control fire;
- (B) provide for public safety or trail access; or

(C) control insect and disease outbreaks.

(3) Firewood for personal use

Firewood may be harvested for personal use along perimeter roads in the scenic areas, subject to any conditions that the Secretary may impose.

(g) Insect and disease outbreaks

The Secretary may control insect and disease outbreaks—

- (1) to maintain scenic quality;
- (2) to prevent tree mortality;
- (3) to reduce hazards to visitors; or
- (4) to protect private land.

(h) Vegetation management

The Secretary may engage in vegetation manipulation practices in the scenic areas to maintain the visual quality and wildlife clearings in existence on March 30, 2009.

(i) Motorized vehicles

(1) In general

Except as provided in paragraph (2), motorized vehicles shall not be allowed within the scenic areas.

(2) Exceptions

The Secretary may authorize the use of motorized vehicles—

- (A) to carry out administrative activities that further the purposes of the scenic areas, as described in subsection (b);
- (B) to assist wildlife management projects in existence on March 30, 2009; and
- (C) during deer and bear hunting seasons—
 - (i) on Forest Development Roads 49410 and 84b; and
 - (ii) on the portion of Forest Development Road 6261 designated on the map described in subsection (a)(2) as “open seasonally”.

(j) Wildfire suppression

Wildfire suppression within the scenic areas shall be conducted—

- (1) in a manner consistent with the purposes of the scenic areas, as described in subsection (b); and
- (2) using such means as the Secretary determines to be appropriate.

(k) Water

The Secretary shall administer the scenic areas in a manner that maintains and enhances water quality.

(l) Withdrawal

Subject to valid existing rights, all Federal land in the scenic areas is withdrawn from—

- (1) location, entry, and patent under the mining laws; and
- (2) operation of the mineral leasing and geothermal leasing laws.

(Pub. L. 111–11, title I, §1104, Mar. 30, 2009, 123 Stat. 1004.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (c)(1)(A), is subtitle B (§§1101–1107) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1002, which enacted this section and section 546b–1 of this title, enacted provisions set out as a

note below, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle B to the Code, see Tables.

DEFINITIONS

Pub. L. 111-11, title I, §1101, Mar. 30, 2009, 123 Stat. 1002, provided that: "In this subtitle [subtitle B (§§1101-1107) of title I of Pub. L. 111-11, enacting this section and section 546b-1 of this title and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title]:

"(1) SCENIC AREAS.—The term 'scenic areas' means the Seng Mountain National Scenic Area and the Bear Creek National Scenic Area.

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

§ 546b-1. Maps and boundary descriptions

(a) In general

As soon as practicable after March 30, 2009, the Secretary shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives maps and boundary descriptions of—

- (1) the scenic areas;
- (2) the wilderness areas designated by paragraphs (9) through (20) of section 1 of Public Law 100-326 (16 U.S.C. 1132 note) (as added by section 1102(a)(5));
- (3) the wilderness study area designated by section 6(a)(5) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98-586) (as added by section 1102(b)(2)(D)); and
- (4) the potential wilderness area designated by section 1103(a).¹

(b) Force and effect

The maps and boundary descriptions filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any minor errors in the maps and boundary descriptions.

(c) Availability of map and boundary description

The maps and boundary descriptions filed under subsection (a) shall be on file and available for public inspection in the Office of the Chief of the Forest Service.

(d) Conflict

In the case of a conflict between a map filed under subsection (a) and the acreage of the applicable areas specified in this subtitle, the map shall control.

(Pub. L. 111-11, title I, §1106, Mar. 30, 2009, 123 Stat. 1007.)

REFERENCES IN TEXT

Paragraphs (9) through (20) of section 1 of Public Law 100-326 as added by section 1102(a)(5), referred to in subsec. (a)(2), means paragraphs (9) through (20) of section 1 of Public Law 100-326 as added by section 1102(a)(5) of Pub. L. 111-11, which enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

Section 6(a)(5) of the Virginia Wilderness Act of 1984 (Public Law 98-586) (as added by section 1102(b)(2)(D)), referred to in subsec. (a)(3), is section 6(a)(5) of Pub. L. 98-586, as added by section 1102(b)(2)(D) of Pub. L.

¹ See References in Text note below.

111-11, title I, Mar. 30, 2009, 123 Stat. 1004, which is not classified to the Code.

Section 1103(a), referred to in subsec. (a)(4), means section 1103(a) of Pub. L. 111-11, which amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

This subtitle, referred to in subsecs. (b) and (d), is subtitle B (§§1101-1107) of title I of Pub. L. 111-11, Mar. 30, 2009, 123 Stat. 1002, which enacted this section and section 546b of this title, enacted provisions set out as a note under section 546b of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

DEFINITIONS

For definitions of terms used in this section, see section 1101 of Pub. L. 111-11, set out as a note under section 546b of this title.

CHAPTER 3—FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT

SUBCHAPTER I—GENERAL PROVISIONS

Sec.	
551.	Protection of national forests; rules and regulations.
551a.	Cooperation by Secretary of Agriculture with States and political subdivisions in law enforcement.
551b.	Omitted.
551c.	Planning for fire protection.
551d.	Wildland firefighter safety.
552.	Consent to agreement by States for conservation of forests and water supply.
552a.	Restoration of withdrawn national forest lands to appropriation.
552b.	Administration of withdrawn lands; rules and regulations.
552c.	Reimbursement of United States for loss of revenue.
552d.	Punishment of violations of regulations.
553.	Duties of officials of Forest Service; stock laws; protection of fish and game.
553a.	Repealed.
554.	Forest supervisors and rangers.
554a.	Employees to be appointed without regard to political affiliations.
554b.	Medical care for employees engaged in hazardous work; notification and transportation of employees.
554c.	Care of employees' graves.
554d.	Recreation facilities for employees of Forest Service and their immediate families.
554e.	Employment of workers for emergencies.
555.	Forest headquarters, ranger stations, dwellings, or other needed sites.
555a.	Exchange of lands.
555b.	Street improvements; availability of Forest Service funds.
556.	Appropriations for Forest Service; use for transportation or traveling expenses; preparation or publication of newspaper or magazine articles.
556a.	Omitted.
556b.	Use of appropriations for expenses of transporting automobiles of employees between points in Alaska.
556c.	Reimbursement of employees for property losses resulting from fires, floods, or other casualties.
556d.	Advances of public moneys to Forest Service for fighting forest fires in emergency cases.
556e.	Emergency appropriations for rehabilitation and wildfire suppression.
556f.	Expenses of student interns.
556g.	Reimbursement of employee license costs and certification fees.
556h.	Recognition of private contributors to Forest Service programs.