

that direct Federal acquisition for trail purposes be limited to high potential route segments or high potential historic sites and that no land or site located along a designated national historic trail or along the Continental Divide Scenic Trail be subject to the provisions of section 1653(f) of title 49 unless that land be deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

Pub. L. 95-248, §1(4), substituted “an average of one hundred and twenty-five acres per mile” for “twenty-five acres in any one mile”, and struck out limitation on exercise of authority with respect to a connecting trail right-of-way.

Subsec. (h). Pub. L. 95-625, §551(17), substituted “recreation, national scenic, or national historic” for “recreation or scenic” in first sentence, and inserted “or national historic” after “scenic” in second sentence.

Subsec. (i). Pub. L. 95-625, §551(17), substituted “recreation, national scenic, or national historic” for “recreation or scenic”.

#### **Executive Documents**

##### **TRANSFER OF FUNCTIONS**

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

#### **§ 1247. State and local area recreation and historic trails**

##### **(a) Secretary of the Interior to encourage States, political subdivisions, and private interests; financial assistance for State and local projects**

The Secretary of the Interior is directed to encourage States to consider, in their comprehensive statewide outdoor recreation plans and proposals for financial assistance for State and local projects submitted pursuant to chapter 2003 of title 54, needs and opportunities for establishing park, forest, and other recreation and historic trails on lands owned or administered by States, and recreation and historic trails on lands in or near urban areas. The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to division A of subtitle III of title 54, needs and opportunities for establishing historic

trails. He is further directed, in accordance with the authority contained in chapter 2003 of title 54),<sup>1</sup> to encourage States, political subdivisions, and private interests, including nonprofit organizations, to establish such trails.

##### **(b) Secretary of Housing and Urban Development to encourage metropolitan and other urban areas; administrative and financial assistance in connection with recreation and transportation planning; administration of urban open-space program**

The Secretary of Housing and Urban Development is directed, in administering the program of comprehensive urban planning and assistance under section 701<sup>2</sup> of the Housing Act of 1954, to encourage the planning of recreation trails in connection with the recreation and transportation planning for metropolitan and other urban areas. He is further directed, in administering the urban open-space program under title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.], to encourage such recreation trails.

##### **(c) Secretary of Agriculture to encourage States, local agencies, and private interests**

The Secretary of Agriculture is directed, in accordance with authority vested in him, to encourage States and local agencies and private interests to establish such trails.

##### **(d) Interim use of railroad rights-of-way**

The Secretary of Transportation, the Chairman of the Surface Transportation Board, and the Secretary of the Interior, in administering the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and chapter 224 of title 49, shall encourage State and local agencies and private interests to establish appropriate trails using the provisions of such programs. Consistent with the purposes of that Act, and in furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use, in the case of interim use of any established railroad rights-of-way pursuant to donation, transfer, lease, sale, or otherwise in a manner consistent with this chapter, if such interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes. If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights-of-way, then the Board shall impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this chapter, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use.

<sup>1</sup> So in original. The closing parenthesis preceding the comma probably should not appear. See 2014 Amendment note below.

<sup>2</sup> See References in Text note below.

**(e) Designation and marking of trails; approval of Secretary of the Interior**

Such trails may be designated and suitably marked as parts of the nationwide system of trails by the States, their political subdivisions, or other appropriate administering agencies with the approval of the Secretary of the Interior.

(Pub. L. 90-543, §8, Oct. 2, 1968, 82 Stat. 925; Pub. L. 95-625, title V, §551(22), Nov. 10, 1978, 92 Stat. 3516; Pub. L. 98-11, title II, §208, Mar. 28, 1983, 97 Stat. 48; Pub. L. 104-88, title III, §317(1), Dec. 29, 1995, 109 Stat. 949; Pub. L. 113-287, §5(d)(24), Dec. 19, 2014, 128 Stat. 3266; Pub. L. 117-58, div. B, title I, §21301(j)(1), Nov. 15, 2021, 135 Stat. 691.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 701 of the Housing Act of 1954, referred to in subsec. (b), was classified to section 461 of former Title 40, Public Buildings, Property, and Works, prior to repeal by Pub. L. 97-35, title III, §313(b), Aug. 13, 1981, 95 Stat. 398.

The Housing Act of 1961, referred to in subsec. (b), is Pub. L. 87-70, June 30, 1961, 75 Stat. 149. Title VII of the Housing Act of 1961 was classified generally to chapter 8C (§1500 et seq.) of Title 42, The Public Health and Welfare, and was omitted from the Code pursuant to section 5316 of Title 42 which terminated authority to make grants or loans under such title VII after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsec. (d), is Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 45, Railroads, and Tables.

**AMENDMENTS**

2021—Subsec. (d). Pub. L. 117-58 inserted “(45 U.S.C. 801 et seq.) and chapter 224 of title 49” after “Reform Act of 1976”.

2014—Subsec. (a). Pub. L. 113-287 substituted “chapter 2003 of title 54” for “the Land and Water Conservation Fund Act”, “division A of subtitle III of title 54” for “the Act of October 15, 1966 (80 Stat. 915), as amended”, and “chapter 2003 of title 54” for “the Act of May 28, 1963 (77 Stat. 49”.

1995—Subsec. (d). Pub. L. 104-88 substituted “Chairman of the Surface Transportation Board” for “Chairman of the Interstate Commerce Commission” and “the Board” for “the Commission”.

1983—Subsecs. (d), (e). Pub. L. 98-11, §208(2), added subsec. (d) and redesignated former subsec. (d) as (e).

1978—Subsec. (a). Pub. L. 95-625 inserted “and historic” after “establishing park, forest, and other recreation” and “administered by States, and recreation”, and directed the Secretary to encourage States to consider in their plans and proposals the needs and opportunities for establishing historic trails.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1995 AMENDMENT**

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

**§ 1248. Easements and rights-of-way**

**(a) Authorization; conditions**

The Secretary of the Interior or the Secretary of Agriculture as the case may be, may grant

easements and rights-of-way upon, over, under, across, or along any component of the national trails system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions contained in such easements and rights-of-way shall be related to the policy and purposes of this chapter.

**(b) Cooperation of Federal agencies with Secretary of the Interior and Secretary of Agriculture**

The Department of Defense, the Department of Transportation, the Surface Transportation Board, the Federal Communications Commission, the Secretary of Energy, and other Federal agencies having jurisdiction or control over or information concerning the use, abandonment, or disposition of roadways, utility rights-of-way, or other properties which may be suitable for the purpose of improving or expanding the national trails system shall cooperate with the Secretary of the Interior and the Secretary of Agriculture in order to assure, to the extent practicable, that any such properties having values suitable for trail purposes may be made available for such use.

**(c) Abandoned railroad grants; retention of rights**

Commencing October 4, 1988, any and all right, title, interest, and estate of the United States in all rights-of-way of the type described in section 912 of title 43, shall remain in the United States upon the abandonment or forfeiture of such rights-of-way, or portions thereof, except to the extent that any such right-of-way, or portion thereof, is embraced within a public highway no later than one year after a determination of abandonment or forfeiture, as provided under such section.

**(d) Location, incorporation, and management**

(1) All rights-of-way, or portions thereof, retained by the United States pursuant to subsection (c) which are located within the boundaries of a conservation system unit or a National Forest shall be added to and incorporated within such unit or National Forest and managed in accordance with applicable provisions of law, including this chapter.

(2) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or a National Forest but adjacent to or contiguous with any portion of the public lands shall be managed pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.] and other applicable law, including this section.

(3) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or National Forest which the Secretary of the Interior determines suitable for use as a public recreational trail or other recreational purposes shall be managed by the Secretary for such uses, as well as for such other uses as the Secretary determines to be appropriate pursuant to applicable laws, as long as such uses do not preclude trail use.