CODIFICATION

Section was formerly classified to section 460m–15 of this title.

AMENDMENTS

2002—Pub. L. 107–356 substituted ''NERI 80,034, dated May 2001'' for ''NERI–80,028A, dated March 1996''.

1996—Pub. L. 104–333 substituted ''NERI–80,028A, dated March 1996'' for ''NERI–80,023, dated January 1987''.

1988—Pub. L. 100–534 substituted ''NERI–80,023, dated January 1987'' for ''NERI–20,002, dated July 1978''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

New River Gorge National River redesignated New River Gorge National Park and Preserve by Pub. L. 116–260, div. FF, title II, § 202, Dec. 27, 2020, 134 Stat. 3089, which is classified to section 410eeee of this title.

§ 410eeee–2. Acquisition of property

(a) Authority of Secretary; manner; donation of State lands; improved and unimproved properties

Within the boundaries of the New River Gorge National River,[1] the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this subchapter. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

(b) Non-federally owned lands; cooperative agreements affecting properties of historical significance

On non-federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

(c) "Improved property" defined

For the purposes of this Act, the term ''improved property'' means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as ''dwelling''), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an ''improved property'', the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(d) Owner's reservation of right of use and occupancy for fixed term of years or for life; election by owner; fair market value; termination; notification

The owner of an improved property, as defined in this subchapter, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this subchapter, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(Pub. L. 95–625, title XI, § 1102, Nov. 10, 1978, 92 Stat. 3545; Pub. L. 99–500, § 101(h) [title I, § 116(a)], Oct. 18, 1986, 100 Stat. 1783–242, 1783–266, and Pub. L. 99–591, § 101(h) [title I, § 116(a)], Oct. 30, 1986, 100 Stat. 3341–242, 3341–266; Pub. L. 99–590, title X, § 1001, Oct. 30, 1986, 100 Stat. 3339.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of this Act to the Code, see Tables.

[1] See Change of Name note below.

CODIFICATION

Section was formerly classified to section 460m–16 of this title.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–500, Pub. L. 99–590, Pub. L. 99–591, amended subsec. (a) identically inserting provisions relating to acquisition of an administrative headquarters site.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

New River Gorge National River redesignated New River Gorge National Park and Preserve by Pub. L. 116–260, div. FF, title II, §202, Dec. 27, 2020, 134 Stat. 3089, which is classified to section 410eeee of this title.

§ 410eeee–3. Lands and areas plan; submission to Congressional committees

Within two years from November 10, 1978, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this national river;

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing four fiscal years; and

(iv) the feasibility and suitability of including within the boundaries of the national river, the section of the New River from Fayetteville to Gauley Bridge, and reasons therefor.

(Pub. L. 95–625, title XI, §1103, Nov. 10, 1978, 92 Stat. 3546.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 460m–17 of this title.

Statutory Notes and Related Subsidiaries

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.

§ 410eeee–4. Zoning laws and ordinances; establishment; assistance; restrictions; variances

The Secretary shall on his own initiative, or at the request of any local government having jurisdiction over land located in or adjacent to the Gorge area, assist and consult with the appropriate officials and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of this subchapter. In providing assistance pursuant to this section, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of restricting incompatible commercial and industrial use of all real property in or adjacent to the Gorge area;

(2) aid in preserving the character of the Gorge area by appropriate restrictions on the use of real property in the vicinity, including, but not limited to, restrictions upon building and construction of all types; signs and billboards; the burning of cover; cutting of timber; removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the esthetic character of the Gorge area; and

(3) have the effect of providing that the Secretary shall receive advance notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

(Pub. L. 95–625, title XI, §1104, Nov. 10, 1978, 92 Stat. 3546.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 460m–18 of this title.

§ 410eeee–5. Mineral lands

(a) Mining; prohibition and limitation

Notwithstanding any other provision of law, no surface mining of any kind shall be permitted on federally owned lands within the boundary of the national river where the subsurface estate is not federally owned. Underground mining on such lands may be permitted by the Secretary only if—

(1) the mining operation will have no significant adverse impact on the public use and enjoyment of the national river;

(2) the mining operation will disturb the minimum amount of surface necessary to extract the mineral; and

(3) the surface is not significantly disturbed, unless there is no technologically feasible alternative.

(b) Timber harvesting

The harvesting of timber on federally owned lands within the national river boundary is prohibited, except insofar as it is necessary for the Secretary to remove trees for river access, historic sites, primitive campgrounds, scenic vistas, or as may be necessary from time to time for reasons of public health and safety.

(c) Civil action; jurisdiction; recovery

The owner of a mineral estate subject to this section who believes he has suffered a loss by operation of this section, may bring an action only in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(Pub. L. 95–625, title XI, §1105, Nov. 10, 1978, 92 Stat. 3546.)