

with the opportunity to testify with respect to matters to be addressed by the plan.

(k) Approval of plan

The Commission shall submit the plan to the Secretary and the Governor of Minnesota, for their review. The Governor shall act on the plan within 90 days and shall submit the plan to the Secretary along with any recommendations. The Secretary shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

- (1) The adequacy of public participation.
- (2) Assurances of plan implementation from State and local officials.
- (3) The adequacy of regulatory and financial tools that are in place to implement the plan.
- (4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Governor and Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Governor for his review. Following his review, the Governor shall submit the revised plan, together with any recommendations he may have, to the Secretary who shall approve or disapprove the revision within 60 days.

(l) Interim program

Prior to the adoption of the Commission's plan, the Secretary and the Commission shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes of this part, and shall advise and cooperate with the appropriate Federal, State, and local governmental entities to minimize adverse impacts on the values for which the Area is established.

(m) Commission review

The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the review and approval, as set forth in subsection (k), modify said plan, if the Commission determines that such modification is necessary to further the purposes of this part.

(n) Termination of Commission

The Commission shall terminate on the date 10 years after November 18, 1988. Following termination of the Commission the State is authorized to establish a State Commission which shall exercise the functions and authorities described in subsection (m). The Secretary of the Interior and the Secretary of the Army are authorized and directed to participate as members of such State Commission.

(Pub. L. 100-696, title VII, § 703, Nov. 18, 1988, 102 Stat. 4600; Pub. L. 101-40, § 4(2), June 20, 1989, 103 Stat. 82; Pub. L. 102-525, title III, § 302, Oct. 26, 1992, 106 Stat. 3441.)

Editorial Notes

REFERENCES IN TEXT

The Clean Water Act, referred to in subsec. (i)(2)(D), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (i)(2)(D), is title XIV of act July 1, 1944, as added Pub. L. 93-523, § 2(a), Dec. 16, 1974, 88 Stat. 1660, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A 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 201 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (i). Pub. L. 102-525 substituted “3 years after appointment of the full membership of the Commission” for “3 years after November 18, 1988”.

1989—Subsec. (d). Pub. L. 101-40 substituted “and shall serve” for “to serve”.

§ 460zz-3. Federal lands and developments

(a) Lands

Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 460zz-1 of this title, is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this part, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational and flood control purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b).

(2) Federal property on which there is located any building or other structure which is in use (as of November 18, 1988) or for which a lease is in effect shall not be transferred under this subsection without the concurrence of the administering agency.

(b) Federal agency activities

(1) In general

Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency, or instrumentality commences any undertaking or provides any Federal assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 460zz-2 of this title. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. If the Secretary determines that the proposed facility or undertaking is incompatible with the plan, he shall immediately notify such Federal department,

agency, or instrumentality and request such department, agency, or instrumentality to take the actions necessary to conform the proposed facility or undertaking to the plan. The Federal department, agency, or instrumentality shall, within 60 days after receiving the Secretary's request, notify the Secretary of the specific decisions made in response to the request. To the extent that such department, agency, or instrumentality does not then conform such facility or undertaking to the request of the Secretary, the Secretary is directed to notify the Congress in writing of the incompatibility of such facility or undertaking with the plan approved under section 460zz-2 of this title.

(2) Navigation

(A) Nothing in this part shall be deemed to impact or otherwise affect such existing statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements: *Provided*, That in exercising such authority the Secretary of the Army, through the Corps of Engineers and the Secretary of the Department in which the Coast Guard is operating, shall not take any action that would have a direct and adverse effect on the values for which the Area is established unless such action is essential for the protection of public health or safety or is necessary for national security or defense.

(B) In planning for the development and public use of the Area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource developments or flood control projects and that of the Area are compatible.

(Pub. L. 100-696, title VII, § 704, Nov. 18, 1988, 102 Stat. 4604.)

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

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

§ 460zz-4. Administration

(a) Authorities

The Secretary shall administer the Area in accordance with this part. Only those lands within the Area under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Other lands and waters within the Area shall be administered under State and local laws. In the case of any conflict between the provisions of this part and such generally applicable provisions of law, the provisions of this part shall govern.

(b) State and local authorities

The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) Land acquisition

Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2). In no event may the Secretary use the authority provided in subsection (d)(3) to acquire land or interests in land without the owner's consent for any use exercised prior to January 1, 1987, that is consistent with the plan under section 460zz-2 of this title.

(d) Review of local plans

(1) Authority

For the purpose of protecting the integrity of the Area the Secretary shall cooperate and consult with the State and the appropriate political subdivisions to review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 460zz-2 of this title. Additionally the Secretary shall in consultation with the State and its political subdivisions determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary shall enter into agreements with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies.

(2) Purpose

The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this subchapter. Following the approval of the plan under section 460zz-2 of this title and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in a manner consistent with the plan, and if the Secretary determines that there is no feasible alternative available to prevent uses which would be substantially incompat-