

SUBCHAPTER LXIII—NATIONAL SEASHORE  
RECREATIONAL AREAS

**§ 459. Cape Hatteras National Seashore Recreational Area; conditional establishment; acquisition of lands**

When title to all the lands, except those within the limits of established villages, within boundaries to be designated by the Secretary of the Interior within the area of approximately one hundred square miles on the islands of Chicamacomico, Ocracoke, Bodie, Roanoke, and Collington, and the waters and the lands beneath the waters adjacent thereto shall have been vested in the United States, said area shall be, and is, established, dedicated, and set apart as a national seashore recreational area for the benefit and enjoyment of the people and shall be known as the Cape Hatteras National Seashore Recreational Area: *Provided*, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid area, but such lands shall be secured by the United States only by public or private donation.

(Aug. 17, 1937, ch. 687, § 1, 50 Stat. 669; June 29, 1940, ch. 459, § 1, 54 Stat. 702.)

CHANGE OF NAME

Words “national seashore recreational area” substituted in text for “national seashore” pursuant to act June 29, 1940.

**§ 459a. Acceptance of donations; acquisition of property by purchase and condemnation**

The Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property, within the boundaries of said national seashore recreational area as determined and fixed hereunder and donations of funds for the purchase and maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States under any donated funds by purchase, when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of section 3113 of title 40, such tracts of land within the said national seashore recreational area as may be necessary for the completion thereof.

(Aug. 17, 1937, ch. 687, § 2, 50 Stat. 669; June 29, 1940, ch. 459, § 1, 54 Stat. 702.)

CODIFICATION

“Section 3113 of title 40” substituted in text for “the Act of August 1, 1888” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

CHANGE OF NAME

Words “national seashore recreational area” substituted in text for “national seashore” pursuant to act June 29, 1940.

**§ 459a-1. Administration, protection, and development; commercial fishing by residents; hunting**

The administration, protection, and development of the aforesaid national seashore rec-

reational area shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended: *Provided*, That except as hereinafter provided nothing herein shall be construed to divest the jurisdiction of other agencies of the Government exercised on August 17, 1937, over Federal-owned lands within the area of the said Cape Hatteras National Seashore Recreational Area: *Provided further*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.], shall not apply to this national seashore recreational area: *And provided further*, That the legal residents of villages referred to in section 459 of this title shall have the right to earn a livelihood by fishing within the boundaries to be designated by the Secretary of the Interior, subject to such rules and regulations as the said Secretary may deem necessary in order to protect the area for recreational use as provided for in sections 459 to 459a-3 of this title: *And provided further*, That hunting shall be permitted, under such rules and regulations as may be prescribed by the Secretary of the Interior in conformity with the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755) [16 U.S.C. 703 et seq.], as follows: (a) Upon the waters of the sounds included within the national seashore recreational area, (b) in the area north of the Currituck County line, (c) on Ocracoke Island, and (d) within not more than two thousand acres of land in the remaining portion of said national seashore recreational area, as shall be designated by the Secretary of the Interior; except on lands and waters included in any existing or future wildlife or migratory bird refuge and adjacent closed waters.

(Aug. 17, 1937, ch. 687, § 3, 50 Stat. 670; June 29, 1940, ch. 459, §§ 1, 2, 54 Stat. 702.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the “Act of June 10, 1920, known as the Federal Water Power Act,” and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and 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 Migratory Bird Treaty Act of July 3, 1918, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

CHANGE OF NAME

Words “national seashore recreational area” substituted in text for “national seashore” pursuant to act June 29, 1940.

TRANSFER OF FUNCTIONS

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

**§ 459a-2. Preservation of natural features; acquisition of additional property; reversion of property on failure of conditions**

Except for certain portions of the area, deemed to be especially adaptable for recreational uses, particularly swimming, boating, sailing, fishing, and other recreational activities of similar nature, which shall be developed for such uses as needed, the said area shall be permanently reserved as a primitive wilderness and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing in this area: *Provided*, That the Secretary of the Interior may, in his discretion, accept for administration, protection, and development by the National Park Service a minimum of ten thousand acres within the area described in section 459 of this title, including the existing Cape Hatteras State Park, and, in addition, any other portions of the area described in section 459 of this title if the State of North Carolina shall agree that if all the lands described in section 459 of this title shall not have been conveyed to the United States within fifteen years from August 17, 1937, the establishment of the aforesaid national seashore recreational area may, in the discretion of the said Secretary, be abandoned, and that, in the event of such abandonment, the said State will accept a reconveyance of title to all lands conveyed by it to the United States for said national seashore recreational area. The lands donated to the United States for the purposes of sections 459 to 459a-3 of this title by parties other than said State shall revert in the event of the aforesaid abandonment to the donors, or their heirs, or other persons entitled thereto by law.

In the event of said abandonment, the Secretary of the Interior shall execute any suitable quitclaim deeds, or other writings entitled to record in the proper counties of North Carolina stating the fact of abandonment, whereupon title shall revert to those entitled thereto by law and no further conveyance or proof of reversion of title shall be required.

(Aug. 17, 1937, ch. 687, § 4, 50 Stat. 670; June 29, 1940, ch. 459, § 1, 54 Stat. 702; Mar. 6, 1946, ch. 50, 60 Stat. 32.)

AMENDMENTS

1946—Act Mar. 6, 1946, substituted “fifteen years” for “ten years” before “from August 17, 1937”.

CHANGE OF NAME

Words “national seashore recreational area” substituted in text for “national seashore” pursuant to act June 29, 1940.

TRANSFER OF FUNCTIONS

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

**§ 459a-3. Migratory bird refuges not to be affected**

Notwithstanding any other provisions of sections 459 to 459a-3 of this title, lands and waters on or after August 17, 1937, included in any migratory bird refuge under the jurisdiction of the Secretary of Agriculture, within the boundaries of the national seashore recreational area as designated by the Secretary of the Interior under section 459 of this title, shall continue as such refuge under the jurisdiction of the Secretary of Agriculture for the protection of migratory birds, but such lands and waters shall be a part of the aforesaid national seashore recreational area and shall be administered by the National Park Service for recreational uses not inconsistent with the purposes of such refuge under such rules and regulations as the Secretaries of the Interior and Agriculture may jointly approve. The proviso to section 459 of this title shall not limit the power of the Secretary of Agriculture to acquire lands for any migratory bird refuge by purchase with any funds made available therefor by applicable law. (Aug. 17, 1937, ch. 687, § 5, 50 Stat. 670; June 29, 1940, ch. 459, § 1, 54 Stat. 702.)

CHANGE OF NAME

Words “national seashore recreational area” substituted in text for “national seashore” pursuant to act June 29, 1940.

TRANSFER OF FUNCTIONS

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

**§ 459a-4. Omitted**

CODIFICATION

Section, acts June 3, 1948, ch. 393, 62 Stat. 301; June 30, 1949, ch. 288, title I, § 105(a), 63 Stat. 381, which transferred lands in Dare County, North Carolina, to the administrative jurisdiction of the Department of the Interior to be administered as a part of the Cape Hatteras National Seashore Recreational Area project, is omitted in view of Pub. L. 87-313, set out as a note under this section.

DISPOSAL OF LANDS

Pub. L. 87-313, Sept. 26, 1961, 75 Stat. 675, provided: “That the tract of Federal property comprising eight and one-tenth acres of land situated in Dare County, North Carolina, approximately two miles north of Kitty Hawk, which was transferred to the administrative jurisdiction of the Department of the Interior by the Act of June 3, 1948 (62 Stat. 301; 16 U.S.C. 459a [this section]), to be administered as a part of the Cape Hatteras National Seashore Recreational Area, may be disposed of by the Administrator of General Services in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended [see chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, Public Contracts].”

**§ 459a-5. Addition of lands; Naval Amphibious Training Station**

There is transferred to the Secretary of the Interior without reimbursement or transfer of

funds, administrative jurisdiction over an area of approximately twenty-one and eight-tenths acres of federally owned land, formerly designated as the Naval Amphibious Training Station, together with any improvements thereon which may exist at the time of the transfer, situated on Ocracoke Island within the village of Ocracoke, County of Hyde, in the State of North Carolina. The property so transferred shall be administered by the Department of the Interior and shall become a part of the Cape Hatteras National Seashore Recreational Area, when established.

(July 14, 1953, ch. 191, 67 Stat. 148.)

**§ 459a-5a. Addition of lands; Hatteras**

The tracts of excess Federal lands and improvements thereon in the village of Hatteras, Dare County, North Carolina, bearing General Services Administration control numbers T-NC-442 and C-NC-444, comprising forty-three one-hundredths and one and five-tenths acres of land, respectively, the exact descriptions for which shall be determined by the Administrator of General Services, are transferred, without exchange of funds, to the administrative jurisdiction of the Secretary of the Interior to be administered as a part of the Cape Hatteras National Seashore Recreational Area, authorized by sections 459 to 459a-3 of this title, and shall be subject to all the laws and regulations applicable thereto.

(Pub. L. 85-540, July 18, 1958, 72 Stat. 398.)

**§ 459a-6. Acquisition of non-Federal land within boundaries of recreational area**

Section 452a of this title is amended to extend the authority of the Secretary of the Interior, contained therein, to the Cape Hatteras National Seashore Recreational Area.

(Aug. 6, 1956, ch. 988, § 1, 70 Stat. 1066.)

**§ 459a-7. Availability of appropriations**

Any funds appropriated to the Department of the Interior for the acquisition of non-Federal lands within areas of the National Park System shall after August 6, 1956, be available for the acquisition of non-Federal lands within the Cape Hatteras National Seashore Recreational Area, and the appropriation of funds for the acquisition of such lands is authorized.

(Aug. 6, 1956, ch. 988, § 2, 70 Stat. 1066.)

**§ 459a-8. Limitation on expenditure**

The total amount which may be expended for the land acquisition program at Cape Hatteras National Seashore Recreational Area, pursuant to the authorizations contained in sections 459a-6 to 459a-8 of this title, is expressly limited to \$250,000.

(Aug. 6, 1956, ch. 988, § 3, 70 Stat. 1066.)

**§ 459a-9. Conveyance of land for improvement with public health facility; reversion; consideration; status of property upon transfer of title**

The Secretary of the Interior is authorized to convey the tract of land and improvements

thereon situate in the village of Hatteras, Dare County, North Carolina, and administered as part of the Cape Hatteras National Seashore, formerly bearing General Services Administration excess property control number C-NC-444, comprising one and five-tenths acres, the exact description for which shall be determined by the Secretary, to the Board of Commissioners of Dare County, for purposes of providing thereon a public health facility: *Provided*, That title to the land and any improvements shall revert to the United States upon a finding and notification to the grantee by the Secretary that the property is used for purposes other than a public health facility. The conveyance herein authorized shall be without monetary consideration.

Upon the transfer of title to the grantee, the property herein conveyed shall cease to be a part of the Cape Hatteras National Seashore.

(Pub. L. 89-146, Aug. 28, 1965, 79 Stat. 583.)

**§ 459a-10. Transfer of Ocracoke Light Station to Secretary of the Interior**

The Administrator of the General Services Administration shall transfer administrative jurisdiction over the Federal property consisting of approximately 2 acres, known as the Ocracoke Light Station, to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes. All property so transferred shall be included in and administered as part of the Cape Hatteras National Seashore.

(Pub. L. 105-383, title IV, § 420, Nov. 13, 1998, 112 Stat. 3439.)

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.

**§ 459b. Cape Cod National Seashore; description of area**

(a) The area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b) of this section, is designated for establishment as Cape Cod National Seashore (hereinafter referred to as "the seashore").

(b) The area referred to in subsection (a) of this section is described as follows:

Beginning at a point in the Atlantic Ocean one-quarter of a mile due west of the mean low-water line of the Atlantic Ocean on Cape Cod at the westernmost extremity of Race Point, Provincetown, Massachusetts;

thence from the point of beginning along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean, Cape Cod Bay, and Provincetown Harbor in generally southerly, easterly, and northerly directions rounding Long Point and

then southwesterly to a point a quarter of a mile offshore of the mean low-water line on the harbor side of the dike depicted on the United States Geological Survey Provincetown quadrangle sheet (1949) crossing an arm of the Provincetown Harbor;

thence northerly, along a line a quarter of a mile offshore of and parallel to the low-water line at the dike to a point easterly of the point of intersection of the said dike with the boundary of the Province Lands Reservation as depicted on the said Provincetown quadrangle sheet;

thence westerly to the said point of intersection of the dike and the Province Lands Reservation boundary;

thence along the boundaries of the Province Lands Reservation northwesterly, northeasterly, northerly, and easterly to the easternmost corner of the reservation being near United States Route 6;

thence leaving the said easternmost corner along an extension of the southerly reservation boundary line easterly to the northerly right-of-way line of United States Route 6;

thence along the northerly right-of-way line of United States Route 6 in a general easterly direction crossing the Truro-Provincetown line and continuing in the town of Truro in a generally southeasterly direction to a point four-tenths of a mile southeasterly of the southerly right-of-way line of Highland Road;

thence easterly five-tenths of a mile to a point;

thence turning and running in a southeasterly direction paralleling the general alignment of United States Route 6 and generally distant therefrom five-tenths of a mile to a point approximately 700 feet northwesterly of Long Nook Road;

thence southwesterly along a ridge generally paralleling the alignment of Long Nook Road and distant approximately 700 feet therefrom to a point two-tenths of a mile northeasterly of the northerly right-of-way line of United States Route 6;

thence southeasterly paralleling the general alignment of United States Route 6 and generally distant two-tenths of a mile northeasterly thereof to a point 300 feet south of the southerly right-of-way line of Higgins Hollow Road;

thence in a general easterly direction paralleling the southerly alignment of Higgins Hollow Road and 300 feet distant southerly therefrom to a point five-tenths of a mile east of the easterly right-of-way line of said Route 6;

thence turning and running in a southeasterly and southerly direction paralleling the general alignment of United States Route 6 and distant five-tenths of a mile easterly therefrom to a point 300 feet north of the northerly right-of-way line of North Pamet Road;

thence in a generally southwesterly direction paralleling the general alignment of North Pamet Road and generally distant 300 feet northerly therefrom to a point approximately two-tenths of a mile east of the easterly right-of-way line of United States Route 6;

thence in a southerly direction paralleling the alignment of United States Route 6 and generally distant two-tenths of a mile easterly therefrom to a point three-tenths of a mile south of South Pamet Road;

thence west to the intersection of Old County Road and Mill Pond Road;

thence following the easterly right-of-way line of Old County Road southward to a point opposite the southerly right-of-way line of Ryder Beach Road at its intersection with Old County Road;

thence eastward to a point 300 feet east of the easterly right-of-way line of said Old County Road;

thence in a southerly direction paralleling Old County Road at a distance of 300 feet to the east of the easterly right-of-way line of said road to a point 600 feet south of the southerly right-of-way line of Prince Valley Road;

thence in a generally westerly direction, crossing Old County Road and the New York, New Haven, and Hartford Railroad right-of-way to the southern extremity of the town landing and beach in the Ryder Beach area, and continuing to a point in Cape Cod Bay a quarter of a mile offshore from the mean low-water line of Cape Cod Bay;

thence turning and running along a line a quarter of a mile offshore of and parallel to the mean low-water line of Cape Cod Bay in a general southerly and easterly direction rounding Jeremy Point and thence in a general northerly direction along a line a quarter of a mile offshore of and parallel to the mean low-water line on the westerly side of Wellfleet Harbor, to a point one quarter of a mile due north of the mean low-water line at the eastern tip of Great Island as depicted on the United States Geological Survey Wellfleet quadrangle sheet (1958);

thence north to the mean high-water line on the north shore of the Herring River estuary in the vicinity of its confluence with Wellfleet Harbor;

thence following the mean high-water line southwesterly, northwesterly, and northeasterly to the easterly right-of-way line of Chequeset Neck Road at its crossing of Herring River;

thence following the course of Herring River along the 20-foot contour line of the southeasterly shore thereof to a point near Mill Creek;

thence crossing Mill Creek in a northeasterly direction to the 20-foot contour level near to and northeast of the confluence of Mill Creek and Herring River;

thence following generally northerly and easterly along the easterly edge of the Herring River marshes on the 20-foot contour to a point north of which the easterly right-of-way line of a medium duty road, as depicted on said Wellfleet quadrangle sheet, crosses northward across a marshy stream near the juncture of said medium duty road with Bound Brook Island Road;

thence crossing said marshy stream along said easterly right-of-way line of said medium duty road, and continuing in a northerly direction to the 20-foot contour level on the north side of said marshy stream;

thence following the 20-foot contour line westward approximately 1,000 feet to its intersection with an unimproved dirt road, as depicted on said Wellfleet quadrangle sheet, leading from a point near the juncture of Bound Brook Island Road and the said medium duty road;

thence following said unimproved dirt road northwesterly for approximately 1,600 feet to the 20-foot contour line bordering the southerly edge of the Herring River marshes;

thence following said 20-foot contour line in an easterly direction to Route 6;

thence crossing Route 6 and continuing to a point on the easterly right-of-way line of a power transmission line as depicted on said Wellfleet quadrangle sheet;

thence in a general southerly direction along the said easterly right-of-way line of a power transmission line to the Eastham-Wellfleet town line;

thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road;

thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road;

thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point 500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road;

thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road;

thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road;

thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road;

thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of United States Route 6;

thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northerly boundary of the Eastham town hall property;

thence easterly to a point one-tenth of a mile from United States Route 6;

thence turning and running in a generally southerly direction paralleling the general alignment of United States Route 6 and generally distant therefrom one-tenth of a mile to a small stream approximately one-tenth of a mile beyond Governor Prencce Road extended;

thence southeasterly along the said stream to the Orleans-Eastham town line;

thence along the Orleans-Eastham town line to the southerly tip of Stony Island;

thence generally southeasterly in the town of Orleans by Nauset Harbor Channel to a point due north of the northerly tip of Nauset Heights as depicted on United States Geological Survey Orleans quadrangle sheet (1946);

thence due south to the 20-foot contour line in Nauset Heights as delineated on the said Orleans quadrangle sheet;

thence generally southerly along the said 20-foot contour to a point about one-tenth of a mile northerly of Beach Road;

thence southwesterly along a line intersecting Beach Road at a point two-tenths of a mile easterly of the so-called Nauset Road leading northerly to Nauset Heights;

thence southerly to a head of a tributary to Little Pleasant Bay at the northerly tip of Pochet Neck as depicted on the said Orleans quadrangle sheet;

thence generally southerly along the thread of channel of the said tributary passing westerly and southwesterly around Pochet Island and thence southwesterly into Little Pleasant Bay passing to westerly of the northerly tip of Sampson Island, the westerly tip of Money Head, and the southwesterly tip of Hog Island following in general the centerline of Little Pleasant Bay to Pleasant Bay;

thence generally southeasterly in Pleasant Bay along a line passing midway between Sipson Island and Nauset Beach to a point on the Chatham-Orleans town line one-quarter of a mile westerly of the mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach;

thence generally southerly in Pleasant Bay in the town of Chatham along a line a quarter of a mile offshore of and parallel to the said mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach to a point a quarter of a mile south of the mean low-water line of the southern tip of Nauset Beach;

thence easterly rounding the southern tip of Nauset Beach along a line a quarter of a mile offshore of and parallel thereto;

thence generally northerly and northwesterly, and westerly along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean on the easterly shore of Nauset Beach and on to the outer cape to the point of beginning.

(Pub. L. 87-126, §1, Aug. 7, 1961, 75 Stat. 284.)

#### SEPARABILITY

Section 10 of Pub. L. 87-126 provided that: "If any provision of this Act [sections 459b to 459b-8 of this title] or the application of such provision to any person or circumstance is held invalid, the remainder of this Act [such sections] or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby."

#### § 459b-1. Acquisition of property

##### (a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary

The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to acquire by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the area which is described in section 459b of this title or which lies within the boundaries of the seashore as described pursuant to

section 459b-2 of this title (both together hereinafter in sections 459b to 459b-8 of this title referred to as “such area”). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 459b of this title, or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459b to 459b-8 of this title.

**(b) Use of funds; fair market value**

The Secretary is authorized (1) to use donated and appropriated funds in making acquisitions under sections 459b to 459b-8 of this title, and (2) to pay therefor not more than the fair market value of any acquisitions which he makes by purchase under sections 459b to 459b-8 of this title.

**(c) Exchange of property; cash equalization payments; reports to Congress**

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

The Secretary shall report to the Congress on every exchange carried out under authority of sections 459b to 459b-8 of this title within thirty days from its consummation, and each such report shall include a statement of the fair market values of the properties involved and of any cash equalization payment made or received.

**(d) Exchange of property; addition to Cape Cod National Seashore**

The Secretary may convey to the town of Provincetown, Massachusetts, a parcel of real property consisting of approximately 7.62 acres of Federal land within such area in exchange for approximately 11.157 acres of land outside of such area, as depicted on the map entitled “Cape Cod National Seashore Boundary Revision Map”, dated May, 1997, and numbered 609/80,801, to allow for the establishment of a municipal facility to serve the town that is restricted to solid waste transfer and recycling facilities and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary shall modify the boundary of the Cape Cod National Seashore to include the land that has been added.

**(e) “Fair market value” defined; appraisal**

As used in sections 459b to 459b-8 of this title the term “fair market value” shall mean the fair market value as determined by the Secretary, who may in his discretion base his deter-

mination on an independent appraisal obtained by him.

(Pub. L. 87-126, §2, Aug. 7, 1961, 75 Stat. 287; Pub. L. 105-280, §1(a), Oct. 26, 1998, 112 Stat. 2694.)

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105-280 added subsec. (d) and redesignated former subsec. (d) as (e).

**§ 459b-2. Establishment**

**(a) Notice in Federal Register**

As soon as practicable after August 7, 1961, and following the acquisition by the Secretary of an acreage in the area described in section 459b of this title that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459b to 459b-8 of this title, the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

**(b) Distribution of notice and map**

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459b of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 459b of this title; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459b to 459b-8 of this title to be recorded at the registry of deeds for Barnstable County, Massachusetts.

(Pub. L. 87-126, §3, Aug. 7, 1961, 75 Stat. 288.)

**§ 459b-3. Acquisition by condemnation**

**(a) Right of use and occupancy for residential purposes for life or fixed term of years; exercise of right of election; impairment of interests of lienholders, etc.; right as running with land; transfer, assignment and termination of right; computation of compensation**

(1) The beneficial owner or owners, not being a corporation, of a freehold interest in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under

paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for noncommercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate pur autre vie, or (ii) for a term ending at the death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another or others (such person or persons being hereinafter called "the life tenant"), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.

(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.

(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests of holders of encumbrances, liens, assessments, or other charges upon or against the property.

(6) Any right or rights of use and occupancy retained pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraph (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraph (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 459b-4 of this title and in effect on said date: *Provided*, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 459b-4 which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exer-

cises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value of the portion of said right which remained on the date of termination.

**(b) Suspension of authority for one year and during existence of zoning regulations**

(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 459b of this title for one year following August 7, 1961.

(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and applicable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 459b-4 of this title.

**(c) Suspension of authority respecting property used for commercial or industrial purposes**

The Secretary's authority to acquire property by condemnation shall be suspended with respect to any particular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after August 7, 1961 provided such application is made not later than the date of establishment of the seashore.

**(d) "Improved property" defined**

The term "improved property," wherever used in sections 459b to 459b-8 of this title, shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter 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 accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided, however*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

**(e) Acquisition of clear, marketable and encumbrance-free title**

Nothing in this section or elsewhere in sections 459b to 459b-8 of this title shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(Pub. L. 87-126, § 4, Aug. 7, 1961, 75 Stat. 288.)

#### § 459b-4. Zoning regulations

##### (a) Standards for approval; submission to Congress and municipalities; publication in Federal Register; approval of local bylaws; revocation of approval

As soon after August 7, 1961, as may be practicable, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 459b-3 of this title. The Secretary may issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions.

All regulations and amended regulations proposed to be issued under authority of the two preceding sentences of this subsection shall be submitted to the Congress and to the towns named in section 459b of this title at least ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) before they become effective and the Secretary shall, before promulgating any such proposed regulations or amended regulations in final form, take due account of any suggestions for their modification which he may receive during said ninety-day period. All such regulations and amended regulations shall, both in their proposed form and in their final form, be published in the Federal Register.

The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaws submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment unless before the time of adoption he has submitted to the Congress and the towns and published in the Federal Register as aforesaid proposed amended regulations with which the bylaw or amendment would not be in conformity, in which case he may withhold his approval pending completion of the review and final publication provided for in this subsection and shall thereafter approve the bylaw or amendment only if it is in conformity with the amended regulations in their final form. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 459b-3 of this title by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

##### (b) Commercial and industrial use prohibition; acreage, frontage, setback and miscellaneous requirements

The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of sections 459b to

459b-8 of this title, of the area comprising the seashore, by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

##### (c) Adverse provisions and absence of notice for variance as requiring disapproval of local bylaws

No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of sections 459b to 459b-8 of this title, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

##### (d) Termination of suspension of authority for acquisition by condemnation because of non-conforming variances and uses; agreements concerning exercise of authority

If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as "such bylaw")—

(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

(2) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard),

the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however,* That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

(Pub. L. 87-126, § 5, Aug. 7, 1961, 75 Stat. 290.)

#### § 459b-5. Certificate of suspension of authority for acquisition by condemnation

The Secretary shall furnish to any party in interest requesting the same, a certificate indicating, with respect to any property located within the seashore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with the pro-

visions of sections 459b to 459b-8 of this title, that such authority has been so suspended and the reasons therefor.

(Pub. L. 87-126, § 6, Aug. 7, 1961, 75 Stat. 291.)

**§ 459b-6. Administration of acquired property**

**(a) Utilization of authority for conservation and management of natural resources**

Except as otherwise provided in sections 459b to 459b-8 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by sections 1b to 1d of this title; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459b to 459b-8 of this title.

**(b) Preservation of seashore; incompatible visitor conveniences restricted; provisions for public enjoyment and understanding; developments for recreational activities; public use areas**

(1) In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: *Provided*, That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features of Cape Cod within the seashore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: *Provided further*, That the Secretary may develop for appropriate public uses such portions of the seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod, and other activities of similar nature.

(2) In developing the seashore the Secretary shall provide public use areas in such places and manner as he determines will not diminish for its owners or occupants the value or enjoyment of any improved property located within the seashore.

**(c) Hunting and fishing regulations; navigation**

The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State and Federal law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into coopera-

tive arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in section 459b of this title.

The Secretary shall not interfere with navigation of waters within the boundaries of the Cape Cod National Seashore by such means and in such areas as is now customary.

(Pub. L. 87-126, § 7, Aug. 7, 1961, 75 Stat. 291.)

**§ 459b-7. Cape Cod National Seashore Advisory Commission**

**(a) Establishment; termination**

There is established a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall terminate September 26, 2018.

**(b) Membership; term**

The Commission shall be composed of ten members each appointed for a term of two years by the Secretary as follows:

(1) Six members to be appointed from recommendations made by each of the boards of selectmen of the towns referred to in section 459b of this title, one member from the recommendations made by each such board;

(2) One member to be appointed from recommendations of the county commissioners of Barnstable County, Commonwealth of Massachusetts;

(3) Two members to be appointed from recommendations of the Governor of the Commonwealth of Massachusetts; and

(4) One member to be designated by the Secretary.

**(c) Chairman; vacancies**

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

**(d) Compensation and expenses**

A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under sections 459b to 459b-8 of this title upon vouchers signed by the Chairman.

**(e) Majority vote**

The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

**(f) Consultation of Secretary with Commission**

The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of Cape Cod National Seashore and shall consult with the members with respect to carrying out the provisions of sections 459b-3 and 459b-4 of this title.

**(g) Advice of Commission for commercial or industrial use permits and establishment of public use areas for recreational activities**

No permit for the commercial or industrial use of property located within the seashore shall

be issued by the Secretary, nor shall any public use area for recreational activity be established by the Secretary within the seashore, without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought.

**(h) Exemption from other provisions of law**

(1) Any member of the Advisory Commission appointed under sections 459b to 459b-8 of this title shall be exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 and section 190 of the Revised Statutes (5 U.S.C. 99)<sup>1</sup> except as otherwise specified in paragraph (2) of this subsection.

(2) The exemption granted by paragraph (1) of this subsection shall not extend—

(i) to the receipt or payment of salary in connection with the appointee's Government service from any sources other than the private employer of the appointee at the time of his appointment; or

(ii) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.

(Pub. L. 87-126, § 8, Aug. 7, 1961, 75 Stat. 292; Pub. L. 99-420, title II, § 201, Sept. 25, 1986, 100 Stat. 960; Pub. L. 105-280, § 1(b), Oct. 26, 1998, 112 Stat. 2694; Pub. L. 111-11, title VII, § 7402, Mar. 30, 2009, 123 Stat. 1219.)

REFERENCES IN TEXT

Sections 281, 283, 284, and 1914 of title 18, referred to in subsec. (h)(1), were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, "except as they [sections 281 and 283] may apply to retired officers of the armed forces of the United States", and were supplanted by sections 203, 205, 207, and 209, respectively, of Title 18, Crimes and Criminal Procedure. For further details, see Exemptions note set out under section 203 of Title 18.

Section 190 of the Revised Statutes (5 U.S.C. 99), referred to in subsec. (h)(1), was repealed by Pub. L. 87-849, § 3, Oct. 23, 1962, 76 Stat. 1126. See section 207 of Title 18.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-11 substituted "2018" for "2008".

1998—Subsec. (a). Pub. L. 105-280 substituted "The Commission shall terminate September 26, 2008." for "Said Commission shall terminate 30 years after the date the seashore is established under section 459b-2 of this title."

1986—Subsec. (a). Pub. L. 99-420 substituted "30 years" for "ten years".

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-11, title VII, § 7402, Mar. 30, 2009, 123 Stat. 1219, provided that the amendment made by section 7402 is effective Sept. 26, 2008.

REESTABLISHMENT AND EXTENSION OF COMMISSION

Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 731, provided: "That the Cape Cod National Seashore Advisory Commission established under section 8(a) of the Act of

August 7, 1961 (Public Law 87-126; 75 Stat. 292) [16 U.S.C. 459b-7(a)] is reestablished and extended through February 28, 1996".

**§ 459b-8. Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459b to 459b-8 of this title; except that no more than \$42,917,575 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections.

(Pub. L. 87-126, § 9, Aug. 7, 1961, 75 Stat. 293; Pub. L. 91-252, May 14, 1970, 84 Stat. 216; Pub. L. 98-141, § 3, Oct. 31, 1983, 97 Stat. 909.)

AMENDMENTS

1983—Pub. L. 98-141 substituted "\$42,917,575" for "\$33,500,000".

1970—Pub. L. 91-252 substituted "\$33,500,000" for "\$16,000,000".

**§ 459c. Point Reyes National Seashore; purposes; authorization for establishment**

In order to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to take appropriate action in the public interest toward the establishment of the national seashore set forth in section 459c-1 of this title.

(Pub. L. 87-657, § 1, Sept. 13, 1962, 76 Stat. 538.)

**§ 459c-1. Description of area**

**(a) Boundary map; availability; publication in Federal Register**

The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled "Boundary Map, Point Reyes National Seashore", numbered 612-80,008-E and dated May 1978, plus those areas depicted on the map entitled "Point Reyes and GGNRA Amendments, dated October 25, 1979".

The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising 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 in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.

**(b) Bear Valley Ranch right-of-way**

The area referred to in subsection (a) of this section shall also include a right-of-way to the aforesaid tract in the general vicinity of the northwesterly portion of the property known as "Bear Valley Ranch", to be selected by the Secretary, of not more than four hundred feet in width, together with such adjoining lands as would be deprived of access by reason of the acquisition of such right-of-way.

<sup>1</sup> See References in Text note below.

(Pub. L. 87-657, § 2, Sept. 13, 1962, 76 Stat. 538; Pub. L. 89-666, § 1(a), Oct. 15, 1966, 80 Stat. 919; Pub. L. 93-550, title II, § 201, Dec. 26, 1974, 88 Stat. 1744; Pub. L. 95-625, title III, § 318(a), Nov. 10, 1978, 92 Stat. 3486; Pub. L. 96-199, title I, § 101(a)(1), Mar. 5, 1980, 94 Stat. 67; Pub. L. 103-437, § 6(d)(16), Nov. 2, 1994, 108 Stat. 4584.)

#### AMENDMENTS

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

1980—Subsec. (a). Pub. L. 96-199 inserted “, plus those areas depicted on the map entitled ‘Point Reyes and GGNRA Amendments, dated October 25, 1979’” after “dated May 1978”.

1978—Subsec. (a). Pub. L. 95-625 substituted as a description of the area the lands generally depicted on Boundary Map numbered 612-80,008-E and dated May 1978 for prior such depiction on Boundary Map numbered 612-80,008-B, and dated August 1974; included submerged lands in the description; made the map specifically available in the Washington, District of Columbia, Office; and authorized minor revisions of boundaries and publication thereof in the Federal Register after advising Congressional committees.

1974—Subsec. (a). Pub. L. 93-550 substituted as a boundary description Boundary Map No. 612-80,008-B, and dated August 1974, on file in the office of the National Park Service, Department of the Interior, for a boundary map designated NS-PR-7001, dated June 1, 1960, on file with the Director of the National Park Service, Washington, D.C., and all measurements relating thereto.

1966—Subsec. (b). Pub. L. 89-666 inserted “to the aforesaid tract in the general vicinity of the northwesterly portion of the property known as ‘Bear Valley Ranch’” after “right-of-way”, struck out “from the intersection of Sir Francis Drake Boulevard and Haggerty Gulch” after “aforesaid tract” and included such adjoining lands as would be deprived of access by reason of the right-of-way.

#### § 459c-2. Acquisition of property

##### (a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary; liability of United States under contracts contingent on appropriations

The Secretary is authorized to acquire, and it is the intent of Congress that he shall acquire as rapidly as appropriated funds become available for this purpose or as such acquisition can be accomplished by donation or with donated funds or by transfer, exchange, or otherwise the lands, waters, and other property, and improvements thereon and any interest therein, within the areas described in section 459c-1 of this title or which lie within the boundaries of the seashore as established under section 459c-4 of this title (hereinafter referred to as “such area”). Any property, or interest therein, owned by a State or political subdivision thereof may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459c to 459c-7 of this title. In exercising his authority to acquire property in accordance with the provisions of this subsection, the Secretary may enter into contracts

requiring the expenditure, when appropriated, of funds authorized by section 459c-7 of this title, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

##### (b) Payment for acquisition; fair market value

The Secretary is authorized to pay for any acquisitions which he makes by purchase under sections 459c to 459c-7 of this title their fair market value, as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

##### (c) Exchange of property; cash equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within California and adjacent States, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value, provided that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(Pub. L. 87-657, § 3, Sept. 13, 1962, 76 Stat. 539; Pub. L. 91-223, § 2(a), Apr. 3, 1970, 84 Stat. 90.)

#### AMENDMENTS

1970—Subsec. (a). Pub. L. 91-223 substituted introductory “The” for “Except as provided in section 459c-3 of this title, the”.

#### § 459c-3. Repealed. Pub. L. 91-223, § 2(b), Apr. 3, 1970, 84 Stat. 90

Section, Pub. L. 87-657, § 4, Sept. 13, 1962, 76 Stat. 540, provided conditions for exercise of eminent domain within pastoral zone and defined “ranching and dairy purposes”.

#### § 459c-4. Point Reyes National Seashore

##### (a) Establishment; notice in Federal Register

As soon as practicable after September 13, 1962, and following the acquisition by the Secretary of an acreage in the area described in section 459c-1 of this title, that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459c to 459c-7 of this title, the Secretary shall establish Point Reyes National Seashore by the publication of notice thereof in the Federal Register.

##### (b) Distribution of notice and map

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459c-1 of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the State and to the governing body of each of the political subdivisions involved; (2) cause a

copy of such notice and map to be published in one or more newspapers which circulate in each of the localities; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459c to 459c-7 of this title to be recorded at the registry of deeds for the county involved.

(Pub. L. 87-657, § 4, formerly § 5, Sept. 13, 1962, 76 Stat. 540; renumbered § 4, Pub. L. 91-223, § 2(c), Apr. 3, 1970, 84 Stat. 90.)

AMENDED DESCRIPTION OF BOUNDARIES OF POINT REYES NATIONAL SEASHORE; PUBLICATION IN FEDERAL REGISTER

Pub. L. 93-550, title II, § 202, Dec. 26, 1974, 88 Stat. 1744, provided that: "The Secretary of the Interior shall, as soon as practicable after the date of enactment of this title [Dec. 26, 1974], publish an amended description of the boundaries of the Point Reyes National Seashore in the Federal Register, and thereafter he shall take such action with regard to such amended description and the map referred to in section 201 of this title [amending section 459c-1 of this title] as is required in the second sentence of subsection (b) of section 4 of the act of September 13, 1962, as amended [subsec. (b) of this section]."

**§ 459c-5. Owner's reservation of right of use and occupancy for fixed term of years or life**

**(a) Election of term; fair market value; termination; notification; lease of Federal lands; restrictive covenants, offer to prior owner or leaseholder**

Except for property which the Secretary specifically determines is needed for interpretive or resources management purposes of the seashore, the owner of improved property or of agricultural property on the date of its acquisition by the Secretary under sections 459c to 459c-7 of this title may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy 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 or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of sections 459c to 459c-7 of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under sections 459c to 459c-7 of this title, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of sections 459c to 459c-7 of this title. Any land to be leased by the Secretary under this section shall be offered

first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.

**(b) "Improved and agricultural property" defined**

As used in sections 459c to 459c-7 of this title, the term "improved property" shall mean a private noncommercial dwelling, including the land on which it is situated, whose construction was begun before September 1, 1959, or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978 or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979, and structures accessory thereto (hereinafter in this subsection referred to as "dwelling"), together with such amount and locus of the property adjoining and in the same ownership as such dwelling as the Secretary designates to be reasonably necessary for the enjoyment of such dwelling for the sole purpose of noncommercial residential use and occupancy. In making such designation the Secretary shall take into account the manner of noncommercial residential use and occupancy in which the dwelling and such adjoining property has usually been enjoyed by its owner or occupant. The term "agricultural property" as used in sections 459c to 459c-7 of this title means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978 or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979, together with residential and other structures related to the above uses of the property that were in existence or under construction as of May 1, 1978.

**(c) Payment deferral; scheduling; interest rate**

In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of sections 459c to 459c-7 of this title, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.

**(d) Lands donated by State of California**

The Secretary is authorized to accept and manage in accordance with sections 459c to 459c-7 of this title, any lands and improvements within or adjacent to the seashore which are donated by the State of California or its political subdivisions. He is directed to accept any such lands offered for donation which comprise the Tomales Bay State Park, or lie between said park and Fish Hatchery Creek. The boundaries of the seashore shall be changed to include any such donated lands.

**(e) Fee or admission charge prohibited**

Notwithstanding any other provision of law, no fee or admission charge may be levied for admission of the general public to the seashore.

(Pub. L. 87-657, § 5, formerly § 6, Sept. 13, 1962, 76 Stat. 541; renumbered § 5, Pub. L. 91-223, § 2(c), Apr. 3, 1970, 84 Stat. 90; amended Pub. L. 95-625, title III, § 318(b)-(d), Nov. 10, 1978, 92 Stat. 3487; Pub. L. 96-199, title I, § 101(a)(2)-(4), Mar. 5, 1980, 94 Stat. 67.)

## AMENDMENTS

1980—Subsec. (a). Pub. L. 96-199, §101(a)(2), substituted “Except for property which the Secretary specifically determines is needed for interpretive or resources management purposes of the seashore, the” for “The” in first sentence.

Subsec. (b). Pub. L. 96-199, §101(a)(3), inserted “or, in the case of areas inserted by action of the Ninety-sixth Congress, May 1, 1979,” after “May 1, 1978” and “that were in existence or under construction as of May 1, 1978” after “related to the above uses of the property”.

Subsecs. (d), (e). Pub. L. 96-199, §101(a)(4), added subsecs. (d) and (e).

1978—Subsec. (a). Pub. L. 95-625, §318(b), extended provision to agricultural property; provided for: retention rights of heirs and assigns, retention rights for term of twenty-five years or for term ending with death of owner or spouse, whichever was later, as elected by owner, which provision previously authorized retention for term of fifty years, termination of right of retention and notice thereof, and for lease of federally owned lands, subject to restrictive covenants, with first offer to prior owner or leaseholder; and included clause relating to donation of property to the United States.

Subsec. (b). Pub. L. 95-625, §318(c), defined “improved property” to include private dwelling, the construction of which was begun, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, and included definition of “agricultural property”.

Subsec. (c). Pub. L. 95-625, §318(d), added subsec. (c).

**§ 459c-6. Administration of property****(a) Protection, restoration, and preservation of natural environment**

Except as otherwise provided in sections 459c to 459c-7 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary without impairment of its natural values, in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with, based upon, and supportive of the maximum protection, restoration, and preservation of the natural environment within the area, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and in accordance with other laws of general application relating to the national park system as defined by sections 1b to 1d of this title, except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459c to 459c-7 of this title.

**(b) Hunting and fishing regulations**

The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State, and Federal law. The Secretary shall consult with officials of the State of California and any political subdivision thereof who have jurisdiction of hunting and fishing prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative agreements with such officials regarding such hunting and fishing as he may deem desirable.

(Pub. L. 87-657, §6, formerly §7, Sept. 13, 1962, 76 Stat. 541; renumbered §6, Pub. L. 91-223, §2(c), Apr. 3, 1970, 84 Stat. 90; amended Pub. L. 94-544,

§4(a), Oct. 18, 1976, 90 Stat. 2515; Pub. L. 94-567, §7(a), Oct. 20, 1976, 90 Stat. 2695.)

## AMENDMENTS

1976—Subsec. (a). Pub. L. 94-544 and Pub. L. 94-567 made substantially identical amendments by inserting provision which directed the Secretary to administer the property acquired in such a manner so as to provide recreational, educational, historic preservation, interpretation, and scientific research opportunities consistent with the maximum protection, restoration, and preservation of the environment.

**§ 459c-6a. The Clem Miller Environmental Education Center; designation**

The Secretary shall designate the principal environmental education center within the seashore as “The Clem Miller Environmental Education Center”, in commemoration of the vision and leadership which the late Representative Clem Miller gave to the creation and protection of Point Reyes National Seashore.

(Pub. L. 87-657, §7, as added Pub. L. 94-544, §4(b), Oct. 18, 1976, 90 Stat. 2515, and Pub. L. 94-567, §7(b), Oct. 20, 1976, 90 Stat. 2695.)

## CODIFICATION

Section 4(b) of Pub. L. 94-544 and section 7(b) of Pub. L. 94-567 enacted identical sections.

**§ 459c-6b. Cooperation with utilities district; land use and occupancy; terms and conditions**

The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of sections 459c to 459c-7 of this title.

(Pub. L. 87-657, §8, as added Pub. L. 95-625, title III, §318(e), Nov. 10, 1978, 92 Stat. 3487.)

**§ 459c-7. Authorization of appropriations; restriction on use of land**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459c to 459c-7 of this title, except that no more than \$57,500,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections: *Provided*, That no freehold, leasehold, or lesser interest in any lands hereafter acquired within the boundaries of the Point Reyes National Seashore shall be conveyed for residential or commercial purposes except for public accommodations, facilities, and services provided pursuant to sections 20 to 20g<sup>1</sup> and 462(h) of this title. In addition to the sums heretofore authorized by this section, there is further authorized to be appropriated \$5,000,000 for the acquisition of lands or interests therein.

(Pub. L. 87-657, §9, formerly §8, Sept. 13, 1962, 76 Stat. 541; Pub. L. 89-666, §1(b), Oct. 15, 1966, 80

<sup>1</sup> See References in Text note below.

Stat. 919; renumbered §7 and amended Pub. L. 91-223, §§1, 2(c), Apr. 3, 1970, 84 Stat. 90; renumbered §8, Pub. L. 94-544, §4(b), Oct. 18, 1976, 90 Stat. 2515; renumbered §8, Pub. L. 94-567, §7(b), Oct. 20, 1976, 90 Stat. 2695; renumbered §9, Pub. L. 95-625, title III, §318(e), Nov. 10, 1978, 92 Stat. 3487; amended Pub. L. 95-625, title III, §318(f), as added Pub. L. 96-199, title I, §101(a)(5), Mar. 5, 1980, 94 Stat. 67.)

## REFERENCES IN TEXT

Sections 20 to 20g of this title, referred to in text, were repealed by Pub. L. 105-391, title IV, §415(a), Nov. 13, 1998, 112 Stat. 3515.

Sums "heretofore" authorized by this section, referred to in text, means sums authorized by this section prior to the enactment on Mar. 5, 1980, of Pub. L. 96-199, which added the authorization for a \$5,000,000 appropriation for the acquisition of lands or interest in lands.

## CODIFICATION

Section 4(b) of Pub. L. 94-544 and section 7(b) of Pub. L. 94-567 identically renumbered this section as section 8 of Pub. L. 87-657.

## AMENDMENTS

1980—Pub. L. 96-199 inserted provisions authorizing an appropriation of \$5,000,000 for the acquisition of lands or interests therein.

1970—Pub. L. 91-223, §1, substituted "\$57,500,000" for "\$19,135,000", restricted conveyances of any interest in any lands acquired after April 3, 1970, only for public accommodations, facilities, and services under provisions for concessions in areas administered by National Park Service.

1966—Pub. L. 89-666 substituted "\$19,135,000" for "\$14,000,000".

#### § 459d. Padre Island National Seashore; description of land and waters

In order to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped, the Secretary of the Interior shall take appropriate action in the public interest toward the establishment of the following described lands and waters as the Padre Island National Seashore: Beginning at a point one statute mile northerly of North Bird Island on the easterly line of the Intracoastal Waterway; thence due east to a point on Padre Island one statute mile west of the mean high water line of the Gulf of Mexico; thence southwesterly paralleling the said mean high water line of the Gulf of Mexico a distance of about three and five-tenths statute miles; thence due east to the two-fathom line on the east side of Padre Island as depicted on National Ocean Survey chart numbered 1286; thence along the said two-fathom line on the east side of Padre Island as depicted on National Ocean Survey charts numbered 1286, 1287, and 1288 to the Willacy-Cameron County line extended; thence westerly along said county line to a point 1,500 feet west of the mean high water line of the Gulf of Mexico as that line was determined by the survey of J. S. Boyles and is depicted on sections 9 and 10 of the map entitled "Survey of Padre Island made for the office of the Attorney General of the State of Texas", dated August 7 to 11, 1941, and August 11, 13, and 14, 1941, respectively; thence northerly along a line parallel to said

survey line of J. S. Boyles and distant therefrom 1,500 feet west to a point on the centerline of the Port Mansfield Channel; thence westerly along said centerline to a point three statute miles west of the said two-fathom line; thence northerly parallel with said two-fathom line to 27 degrees 20 minutes north latitude; thence westerly along said latitude to the easterly line of the Intracoastal Waterway; thence northerly following the easterly line of the Intracoastal Waterway as indicated by channel markers in the Laguna Madre to the point of beginning.

(Pub. L. 87-712, §1, Sept. 28, 1962, 76 Stat. 650.)

## CHANGE OF NAME

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

#### § 459d-1. Acquisition of property

##### (a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the areas described in section 459d of this title or which lie within the boundaries of the seashore as established under section 459d-2 of this title (hereinafter referred to as "such area"). Any property, or interest therein, owned by the State of Texas or political subdivision thereof may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459d to 459d-7 of this title.

##### (b) Fair market value; appraisal

The Secretary is authorized to pay for any acquisitions which he makes by purchase under sections 459d to 459d-7 of this title their fair market value, as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

##### (c) Exchange of property; cash equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such

area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(Pub. L. 87-712, § 2, Sept. 28, 1962, 76 Stat. 650.)

REVISION OF BOUNDARIES; ADDITION AND DELETION OF  
ACREAGE

Pub. L. 94-578, title I, §101(13), Oct. 21, 1976, 90 Stat. 2733, as amended Pub. L. 96-199, title I, §111, Mar. 5, 1980, 94 Stat. 70, provided in part that: "The Secretary of the Interior is authorized to revise the boundary of the seashore [Padre Island National Seashore, Texas] to add approximately two hundred and seventy-four acres and to delete approximately two thousand acres, and sections 302 and 303 of the Act of April 11, 1972 (86 Stat. 120, 121) [Pub. L. 92-272, which sections were not classified to the Code], shall apply to the boundary revision authorized herein."

**§ 459d-2. Establishment**

**(a) Notice in Federal Register**

As soon as practicable after September 28, 1962 and following the acquisition by the Secretary of an acreage in the area described in section 459d of this title, that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459d to 459d-7 of this title, the Secretary shall establish the area as a national seashore by the publication of notice thereof in the Federal Register.

**(b) Distribution of notice and map**

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459d of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the State and to the governing body of each of the political subdivisions involved; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of the localities; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459d to 459d-7 of this title to be recorded at the registry of deeds for the county involved.

(Pub. L. 87-712, § 3, Sept. 28, 1962, 76 Stat. 651.)

**§ 459d-3. Reservation of oil, gas, and other minerals**

(a) When acquiring land, waters, or interests therein, the Secretary shall permit a reservation by the grantor of all or any part of the oil and gas minerals in such land or waters and of other minerals therein which can be removed by similar means, with the right of occupation and use of so much of the surface of the land or waters as may be required for all purposes reasonably incident to the mining or removal of such from beneath the surface of these lands and waters and the lands and waters adjacent thereto, under such regulations as may be prescribed by

the Secretary with respect to such mining or removal.

(b) Any acquisition hereunder shall exclude and shall not diminish any right of occupation or use of the surface under grants, leases, or easements existing on April 11, 1961, which are reasonably necessary for the exploration, development, production, storing, processing, or transporting of oil and gas minerals that are removed from outside the boundaries of the national seashore and the Secretary may grant additional rights of occupation or use of the surface for the purposes aforesaid upon the terms and under such regulations as may be prescribed by him.

(Pub. L. 87-712, § 4, Sept. 28, 1962, 76 Stat. 651.)

**§ 459d-4. Administration; utilization of authority for conservation and management of natural resources**

Except as otherwise provided in sections 459d to 459d-7 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, and in accordance with other laws of general application relating to the areas administered and supervised by the Secretary through the National Park Service; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459d to 459d-7 of this title.

(Pub. L. 87-712, § 5, Sept. 28, 1962, 76 Stat. 652.)

**§ 459d-5. Roadways to access highways from mainland**

The Secretary may provide for roadways from the north and south boundaries of such public recreation area to the access highways from the mainland to Padre Island.

(Pub. L. 87-712, § 6, Sept. 28, 1962, 76 Stat. 652.)

**§ 459d-6. Aerial gunnery and bombing range agreements of Secretary of the Interior and Secretary of the Navy**

The Secretary of the Interior shall enter into such administrative agreements with the Secretary of the Navy as the Secretary of the Navy may deem necessary to assure that the Secretary of the Interior will not exercise any authority granted by sections 459d to 459d-7 of this title so as to interfere with the use by the Department of the Navy of any aerial gunnery or bombing range located in the vicinity of Padre Island.

(Pub. L. 87-712, § 7, Sept. 28, 1962, 76 Stat. 652.)

**§ 459d-7. Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459d to 459d-7 of this title; except that no more than \$5,350,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections.

(Pub. L. 87-712, §8, Sept. 28, 1962, 76 Stat. 652; Pub. L. 94-578, title I, §101(13), Oct. 21, 1976, 90 Stat. 2733.)

#### CODIFICATION

Section 101(13) of Pub. L. 94-578, cited as a credit to this section, as amended by Pub. L. 96-199, title I, §111, Mar. 5, 1980, 94 Stat. 70, is also set out in part as a note under section 459d-1 of this title.

#### AMENDMENTS

1976—Pub. L. 94-578 substituted “\$5,350,000” for “\$5,000,000”.

### § 459e. Fire Island National Seashore

#### (a) Purposes; authorization for establishment

For the purpose of conserving and preserving for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, New York, which possess high values to the Nation as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population, the Secretary of the Interior is authorized to establish an area to be known as the “Fire Island National Seashore”.

#### (b) Boundaries

The boundaries of the national seashore shall extend from the easterly boundary of the main unit of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wetlands as would lend themselves to contiguity and reasonable administration within the national seashore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay and, in addition, mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, all as delineated on a map identified as “Fire Island National Seashore”, numbered OGP-0004, dated May 1978. The Secretary shall publish said map in the Federal Register, and it may also be examined in the offices of the Department of the Interior.

(Pub. L. 88-587, §1, Sept. 11, 1964, 78 Stat. 928; Pub. L. 95-625, title III, §322(a), Nov. 10, 1978, 92 Stat. 3488.)

#### AMENDMENTS

1978—Subsec. (b). Pub. L. 95-625 inserted “the main unit of” before “Robert Moses State Park”, included in the boundaries the mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, and substituted map numbered OGP-0004, dated May 1978 for OGP-0002, dated June 1964 and requirement of publishing the map in the Federal Register for prior provision for filing the map with the Federal Register.

#### SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-482, §1, Oct. 17, 1984, 98 Stat. 2255, provided: “That this Act [amending sections 459e-1 and 459e-2 of

this title] may be cited as the ‘Fire Island National Seashore Amendments Act of 1984.’”

### § 459e-1. Acquisition of property

#### (a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary; liability of United States under contracts contingent on appropriations

The Secretary is authorized to acquire, and it is the intent of Congress that he shall acquire as appropriated funds become available for the purpose or as such acquisition can be accomplished by donation or with donated funds or by transfer, exchange, or otherwise, the lands, waters, and other property, and improvements thereon and any interest therein, within the boundaries of the seashore as established under section 459e of this title. Any property or interest therein owned by the State of New York, by Suffolk County, or by any other political subdivision of said State may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459e to 459e-9 of this title. In exercising his authority to acquire property in accordance with the provisions of this subsection, the Secretary may enter into contracts requiring the expenditure, when appropriated, of funds authorized by sections 459e to 459e-9 of this title, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

#### (b) Establishment; notice in Federal Register

When the Secretary determines that lands and waters or interests therein have been acquired by the United States in sufficient quantity to provide an administrative unit, he shall declare the establishment of the Fire Island National Seashore by publication of notice in the Federal Register.

#### (c) Fair market value

The Secretary shall pay not more than the fair market value, as determined by him, for any land or interest therein acquired by purchase.

#### (d) Exchange of property; cash equalization payments

When acquiring land by exchange the Secretary may accept title to any nonfederally owned land located within the boundaries of the national seashore and convey to the grantor any federally owned land under the jurisdiction of the Secretary. The lands so exchanged shall be approximately equal in fair market value, but the Secretary may accept cash from or pay cash to the grantor in order to equalize the values of the lands exchanged.

#### (e) Limitation of condemnation power during existence of zoning ordinance; Davis Park-Smith Point County Park area exception; beneficial owner's election of alternatives as condition for acquisition

With one exception the Secretary shall not acquire any privately owned improved property or

interests therein within the boundaries of the seashore or any property or interests therein within the communities delineated on the boundary map mentioned in section 459e of this title, except beach or waters and adjoining land within such communities which the Secretary determines are needed for public access to the beach, without the consent of the owners so long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is satisfactory to the Secretary. The sole exception to this limitation on the power of the Secretary to condemn improved property where appropriate zoning ordinances exist shall be in the approximately eight-mile area from the easterly boundary of the Brookhaven town park at Davis Park, in the town of Brookhaven, to the westerly boundary of the Smith Point County Park. In this area only, when the Secretary deems it advisable for carrying out the purposes of sections 459e to 459e-9 of this title or to improve the contiguity of the park land and ease its administration, the Secretary may acquire any land or improvements therein by condemnation. In every case in which the Secretary exercises this right of condemnation of improved property the beneficial owner or owners (not being a corporation) of any improved property so condemned, provided he, she, or they held the same or a greater estate in the property on July 1, 1963, may elect as a condition of such acquisition by the Secretary any one of the following three alternatives:

(1) that the Secretary shall take the said property in fee simple absolute and pay the fair market value thereof as of the date of such taking;

(2) that the owner or owners shall retain a life estate in said property, measured on the life of the sole owner or on the life of any one person among multiple owners (notice of the person so designated to be filed in writing with the Secretary within six months after the taking) or on the life of the survivor in title of any estate held on July 1, 1963, as a tenancy by the entirety. The price in such case shall be diminished by the actuarial fair market value of the life estate retained, determined on the basis of standard actuarial methods;

(3) that the owner or owners shall retain an estate for twenty-five years. The price in this case shall likewise be diminished by the value of the estate retained.

**(f) "Improved property" defined**

The term "improved property" as used in sections 459e to 459e-9 of this title shall mean any building, the construction of which was begun before July 1, 1963, and such amount of land, not in excess of two acres in the case of a residence or ten acres in the case of a commercial or industrial use, on which the building is situated as the Secretary considers reasonably necessary to the use of the building: *Provided*, That the Secretary may exclude from improved properties any beach or waters, together with so much of the land adjoining such beach or waters as he deems necessary for public access thereto.

**(g) Undeveloped tracts and property; suspension of condemnation authority; natural state**

The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled "Fire Island National Seashore" numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state.

**(h) Sale of property acquired by condemnation; excepted properties; proceeds available for acquisition of property**

(1)(A) The Secretary shall sell any property described in subparagraph (B) of this paragraph acquired by condemnation under sections 459e to 459e-9 of this title to the highest bidder; except that—

(i) no property shall be sold at less than its fair market value; and

(ii) no property shall be sold unless it is sold subject to covenants or other restrictions that will ensure that the use of such property conforms—

(I) to the standards specified in regulations issued under section 459e-2(a) of this title which are in effect at the time of such sale, and

(II) to any approved zoning ordinance or amendment thereof to which such property is subject.

(B) The property referred to in subparagraph (A) of this paragraph is any property within the boundaries of the national seashore as delineated on the map mentioned in section 459e of this title except—

(i) property within the Dune district referred to in subsection (g) of this section;

(ii) beach or waters and adjoining land within the exempt communities referred to in the first sentence of subsection (e) of this section; and<sup>1</sup>

(iii) property within the eight-mile area described in the second sentence of subsection (e) of this section; and

(iv) any property acquired prior to October 1, 1982, that the Secretary determines should be retained to further the purpose of sections 459e to 459e-9 of this title.

(2) Notwithstanding any other provision of law, all moneys received from sales under paragraph (1) of this subsection may be retained and shall be available to the Secretary, without further appropriation, only for purposes of acquiring property under sections 459e to 459e-9 of this title.

**(i) Injunctive relief; termination**

(1) Upon or after the commencement of any action for condemnation with respect to any property under sections 459e to 459e-9 of this title, the Secretary, through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restrain-

<sup>1</sup> So in original. The word "and" probably should not appear.

ing order or injunction to prevent any use of, or construction upon, such property that—

(A) fails, or would result in a failure of such property, to conform to the standards specified in regulations issued under section 459e-2(a) of this title in effect at the time such use or construction began; or

(B) in the case of undeveloped tracts in the Dune district referred to in subsection (g) of this section, would result in such undeveloped property not being maintained in its natural state.

(2) Any temporary restraining order or injunction issued pursuant to such an application shall terminate in accordance with the provisions of section 459e-2(g) of this title.

(Pub. L. 88-587, §2, Sept. 11, 1964, 78 Stat. 929; Pub. L. 95-625, title III, §322(b), Nov. 10, 1978, 92 Stat. 3489; Pub. L. 98-482, §2, Oct. 17, 1984, 98 Stat. 2255.)

#### AMENDMENTS

1984—Subsecs. (h), (i). Pub. L. 98-482 added subsecs. (h) and (i).

1978—Subsec. (g). Pub. L. 95-625 added subsec. (g).

### § 459e-2. Zoning regulations

#### (a) Amendment; standards for approval of ordinances

In order to carry out the provisions of section 459e-1 of this title the Secretary shall issue regulations, which may be amended from time to time, specifying standards that are consistent with the purposes of sections 459e to 459e-9 of this title for zoning ordinances which must meet his approval.

#### (b) Commercial or industrial use prohibition; size, location or use restrictions for commercial, residential, and other structures; reconciliation of population density with protection of natural resources

The standards specified in such regulations shall have the object of (1) prohibiting new commercial or industrial uses, other than commercial or industrial uses which the Secretary considers are consistent with the purposes of sections 459e to 459e-9 of this title, of all property within the national seashore, and (2) promoting the protection and development for purposes of sections 459e to 459e-9 of this title of the land within the national seashore by means of limitations or restrictions on the size, location or use of any commercial, residential, and other structures. In accomplishing these objectives, such standards shall seek to reconcile the population density of the seashore on October 17, 1984, with the protection of the natural resources of the Seashore<sup>1</sup> consistent with the purposes for which it has been established as provided by sections 459e to 459e-9 of this title.

#### (c) Approval of ordinances

Following issuance of such regulations the Secretary shall approve any zoning ordinance or any amendment to any approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect

at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

#### (d) Adverse provisions and absence of notice for variance as requiring disapproval of ordinances

No zoning ordinance or amendment thereof shall be approved by the Secretary which (1) contains any provisions that he considers adverse to the protection and development, in accordance with the purposes of sections 459e to 459e-9 of this title, of the area comprising the national seashore; or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

#### (e) Termination of suspension of authority for acquisition by condemnation because of non-conforming variances and uses

In the case of any property, including improved property but excluding undeveloped property in the Dune district referred to in section 459e-1(g) of this title, with respect to which the Secretary's authority to acquire by condemnation has been suspended under sections 459e to 459e-9 of this title if—

(1) such property is, after October 17, 1984, made the subject of a variance under, or becomes for any reason an exception to, any applicable zoning ordinance approved under this section; and

(2) such variance or exception results, or will result, in such property being used in a manner that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time such variance or exception took effect;

then the suspension of the Secretary's authority to acquire such property by condemnation shall automatically cease.

#### (f) Certificate of suspension of authority for acquisition by condemnation

The Secretary shall furnish to any party in interest upon request a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

#### (g) Injunctive relief; termination

Notwithstanding any other provision of sections 459e to 459e-9 of this title, the Secretary of the Interior, acting through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restraining order or injunction to prohibit the use of, including construction upon, any property within the seashore in a manner that—

(1) will cause or is likely to cause significant harm to the natural resources of the seashore, or

(2) is inconsistent with the purposes for which the seashore was established.

Except to the extent the Court may deem necessary in extraordinary circumstances, no such

<sup>1</sup> So in original. Probably should not be capitalized.

order or injunction shall continue in effect for more than one hundred and eighty days. 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 significant harm to the natural resources is mitigated.

(Pub. L. 88-587, §3, Sept. 11, 1964, 78 Stat. 930; Pub. L. 98-482, §§3-5, Oct. 17, 1984, 98 Stat. 2256.)

#### AMENDMENTS

1984—Subsec. (b). Pub. L. 98-482, §4, substituted “by means of limitations or restrictions on the size, location or use of any commercial, residential, and other structures” for “by means of acreage, frontage, and setback requirements” and required that the standards seek to reconcile the population density of the seashore on Oct. 17, 1984, with the protection of the natural resources of the seashore.

Subsec. (e). Pub. L. 98-482, §3, designated part of existing provisions as pars. (1) and (2), made the provisions applicable to any property, and excluded undeveloped property in the Dune district.

Subsec. (g). Pub. L. 98-482, §5, added subsec. (g).

### § 459e-3. Retention by owner of right of use and occupancy of improved property for residential purposes

#### (a) Time limit; value of reserved right

Owners of improved property acquired by the Secretary may reserve for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a term that is not more than twenty-five years. The value of the reserved right shall be deducted from the fair market value paid for the property.

#### (b) Termination of right; compensation

A right of use and occupancy reserved pursuant to this section shall be subject to termination by the Secretary upon his determination that the use and occupancy is not consistent with an applicable zoning ordinance approved by the Secretary in accordance with the provisions of section 459e-2 of this title, and upon tender to the owner of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(Pub. L. 88-587, §4, Sept. 11, 1964, 78 Stat. 931.)

### § 459e-4. Hunting and fishing regulations

The Secretary shall permit hunting, fishing, and shellfishing on lands and waters under his administrative jurisdiction within the Fire Island National Seashore in accordance with the laws of New York and the United States of America, except that the Secretary may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment. Any regulations of the Secretary under this section shall be issued after consultation with the Conservation Department of the State of New York.

(Pub. L. 88-587, §5, Sept. 11, 1964, 78 Stat. 931.)

### § 459e-5. Acceptance of donations

The Secretary may accept and use for purposes of sections 459e to 459e-9 of this title any real or personal property or moneys that may be donated for such purposes.

(Pub. L. 88-587, §6, Sept. 11, 1964, 78 Stat. 931.)

### § 459e-6. Administration, protection, and development

#### (a) Conservation of natural resources of Seashore; preservation and access to Sunken Forest Preserve

The Secretary shall administer and protect the Fire Island National Seashore with the primary aim of conserving the natural resources located there. The area known as the Sunken Forest Preserve shall be preserved from bay to ocean in as nearly its present state as possible, without developing roads therein, but continuing the present access by those trails already existing and limiting new access to similar trails limited in number to those necessary to allow visitors to explore and appreciate this section of the seashore.

#### (b) Access to Davis Park-Smith Point County Park area

Access to that section of the seashore lying between the easterly boundary of the Ocean Ridge portion of Davis Park and the westerly boundary of the Smith Point County Park shall be provided by ferries and footpaths only, and no roads shall be constructed in this section except such minimum roads as may be necessary for park maintenance vehicles. No development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this section of the seashore as well as that set forth in the preceding paragraph in as nearly their present state and condition as possible.

#### (c) Utilization of authority for conservation and development of natural resources; user fees

In administering, protecting, and developing the entire Fire Island National Seashore, the Secretary shall be guided by the provisions of sections 459e to 459e-9 of this title and the applicable provisions of the laws relating to the national park system, and the Secretary may utilize any other statutory authority available to him for the conservation and development of natural resources to the extent he finds that such authority will further the purposes of sections 459e to 459e-9 of this title. Appropriate user fees may be collected notwithstanding any limitation on such authority by any provision of law.

(Pub. L. 88-587, §7, Sept. 11, 1964, 78 Stat. 931; Pub. L. 95-625, title III, §322(c), Nov. 10, 1978, 92 Stat. 3489.)

#### AMENDMENTS

1978—Subsec. (b). Pub. L. 95-625 substituted “Ocean Ridge portion of Davis Park” for “Brookhaven town park at”.

**§ 459e-7. Shore erosion control or beach protection measures; Fire Island inlet**

**(a) Authority of Chief of Engineers**

The authority of the Chief of Engineers, Department of the Army, to undertake or contribute to shore erosion control or beach protection measures on lands within the Fire Island National Seashore shall be exercised in accordance with a plan that is mutually acceptable to the Secretary of the Interior and the Secretary of the Army and that is consistent with the purposes of sections 459e to 459e-9 of this title.

**(b) Land contribution**

The Secretary shall also contribute the necessary land which may be required at any future date for the construction of one new inlet across Fire Island in such location as may be feasible in accordance with plans for such an inlet which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and that is consistent with the purposes of sections 459e to 459e-9 of this title.

(Pub. L. 88-587, § 8, Sept. 11, 1964, 78 Stat. 932.)

**§ 459e-8. Omitted**

CODIFICATION

Section, Pub. L. 88-587, § 9, Sept. 11, 1964, 78 Stat. 932, which provided for the creation of a Fire Island National Seashore Advisory Commission, has been omitted as executed in view of a provision of subsec. (a) that the Commission terminate on Sept. 11, 1974, or on the declaration of the establishment of the Fire Island National Seashore, whichever occurs first.

**§ 459e-9. Authorization of appropriations**

There is hereby authorized to be appropriated not more than \$23,000,000 for the acquisition of lands and interests in land pursuant to sections 459e to 459e-9 of this title, and, after December 23, 1980, not more than \$500,000 for development.

(Pub. L. 88-587, § 10, Sept. 11, 1964, 78 Stat. 933; Pub. L. 94-578, title I, § 101(5), Oct. 21, 1976, 90 Stat. 2732; Pub. L. 95-625, title III, § 322(d), Nov. 10, 1978, 92 Stat. 3489; Pub. L. 96-585, § 1(e), Dec. 23, 1980, 94 Stat. 3379.)

AMENDMENTS

1980—Pub. L. 96-585 inserted provision authorizing \$500,000 appropriation for development.

1978—Pub. L. 95-625 substituted “\$23,000,000” for “\$18,000,000”.

1976—Pub. L. 94-578 substituted “\$18,000,000” for “\$16,000,000”.

**§ 459e-10. Authority to accept donation of William Floyd Estate**

The Secretary of the Interior is authorized to accept the donation of approximately six hundred and eleven acres of lands, submerged lands, islands, and marshlands or interests therein, known as the William Floyd Estate, located in the town of Brookhaven, county of Suffolk, and State of New York, delineated on a certain map entitled “Map of the Fire Island National Seashore, Including the William Floyd Estate”, numbered OGP-0003, dated May 1965, which map or a true copy thereof shall be filed with the Federal Register and may be examined in the offices of the Department of the Interior. Such do-

nation may be accepted subject to such terms, covenants, and conditions as the Secretary finds will be in the public interest.

(Pub. L. 89-244, § 1, Oct. 9, 1965, 79 Stat. 967.)

**§ 459e-11. Authority to accept donation of main dwelling on William Floyd Estate; lease-back of donated property**

The Secretary is also authorized to accept the donation of the main dwelling on said lands, which was the birthplace and residence of General William Floyd (a signer of the Declaration of Independence) and the furnishings therein and any outbuildings, subject to like terms, covenants, and conditions. The Secretary is authorized to lease said lands, dwellings, and outbuildings to the grantors thereof for a term of not more than twenty-five years, at \$1 per annum, and during the period of the leasehold the Secretary may provide protective custody for such property.

(Pub. L. 89-244, § 2, Oct. 9, 1965, 79 Stat. 967.)

**§ 459e-12. Administration of property of William Floyd Estate; detached unit**

Upon expiration or surrender of the aforesaid lease the property shall become a detached unit of the Fire Island National Seashore, and shall be administered, protected, and developed in accordance with the laws applicable thereto subject, with respect to said main dwelling and the furnishings therein, to such terms, covenants, and conditions which the Secretary shall have accepted and approved upon the donation thereof as in the public interest.

(Pub. L. 89-244, § 3, Oct. 9, 1965, 79 Stat. 967.)

**§ 459f. Assateague Island National Seashore; purposes; description of area**

For the purpose of protecting and developing Assateague Island in the States of Maryland and Virginia and certain adjacent waters and small marsh islands for public outdoor recreation use and enjoyment, the Assateague Island National Seashore (hereinafter referred to as the “seashore”) shall be established and administered in accordance with the provisions of sections 459f to 459f-11 of this title. The seashore shall comprise the area within Assateague Island and the small marsh islands adjacent thereto, together with the adjacent water areas not more than one-half mile beyond the mean high waterline of the land portions as generally depicted on a map identified as “Proposed Assateague Island National Seashore, Boundary Map, NS-AI-7100A, November, 1964”, which map shall be on file and available for public inspection in the offices of the Department of the Interior.

(Pub. L. 89-195, § 1, Sept. 21, 1965, 79 Stat. 824.)

**§ 459f-1. Acquisition of property**

**(a) Authority of Secretary; manner and place; fair market value; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary**

Within the boundaries of the seashore, the Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to acquire

lands, waters, and other property, or any interest therein, by donation, purchase with donated or appropriated funds, exchange, or in such other method as he may find to be in the public interest. The Secretary is authorized to include within the boundaries of the seashore, not to exceed 112 acres of land or interests therein on the mainland in Worcester County, Maryland. In the case of acquisition by negotiated purchase, the property owners shall be paid the fair market value by the Secretary. Any property or interests therein owned by the States of Maryland or Virginia shall be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for purposes of the seashore.

**(b) Exchange of property; cash equalization payments; scenic easement donation**

When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which the Secretary classifies suitable for exchange or other disposal, and which is located in Maryland or Virginia. The properties so exchanged shall be approximately equal in fair market value, but the Secretary may accept cash from or pay cash to the grantor in order to equalize the values of the properties exchanged. Notwithstanding the acreage limitation set forth in sections 459f to 459f-11 of this title, the Secretary is authorized to accept the donation of a scenic easement covering the parcel of land adjacent to the seashore and known as the "Woodcock Property".

**(c) Bridge acquisition; amount of compensation; payment terms and conditions**

The Secretary is authorized to acquire all of the right, title, or interest of the Chincoteague-Assateague Bridge and Beach Authority, a political subdivision of the State of Virginia, in the bridge constructed by such authority across the Assateague Channel, together with all lands or interests therein, roads, parking lots, buildings, or other real or personal property of such authority, and to compensate the authority in such amount as will permit it to meet its valid outstanding obligations at the time of such acquisition. Payments by the Secretary shall be on such terms and conditions as he shall consider to be in the public interest. Any of the aforesaid property outside the boundaries of the national seashore, upon acquisition by the Secretary, shall be subject to his administration for purposes of the seashore.

**(d) Owner's reservation of right of use and occupancy for residential or hunting purposes for term of years; adjustment of compensation; rules and regulations for appearance of buildings; "improved property" defined**

Owners of improved property acquired by the Secretary may reserve for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommer-

cial residential purposes or for hunting purposes, as hereinafter provided, for a term that is not more than twenty-five years. In such cases, the Secretary shall pay to the owner of the property the fair market value thereof less the fair market value of the right retained by such owner: *Provided*, That such use and occupancy shall be subject to general rules and regulations established by the Secretary with respect to the outward appearance of any buildings on the lands involved. The term "improved property" as used in sections 459f to 459f-11 of this title shall mean (1) any single-family residence the construction of which was begun before January 1, 1964, and such amount of land, not in excess of three acres, on which the building is situated as the Secretary considers reasonably necessary to the noncommercial residential use of the building, and (2) any property fronting on the Chincoteague Bay or Sinepuxent Bay, including the offshore bay islands adjacent thereto, that is used chiefly for hunting and continues in such use: *Provided*, That the Secretary may exclude from improved properties any marsh, beach, or waters, together with so much of the land adjoining such marsh, beach, or waters as he deems necessary for public use or public access thereto.

(Pub. L. 89-195, §2, Sept. 21, 1965, 79 Stat. 824; Pub. L. 101-512, title I, Nov. 5, 1990, 104 Stat. 1924; Pub. L. 102-320, §1(1)-(4), July 10, 1992, 106 Stat. 321.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-320, §1(1), (2), amended second and last sentences generally, substituting reference to 112 acres for reference to sixteen acres for an administrative site in second sentence and striking out reference in last sentence to sixteen acres of Federal property on the mainland in Worcester County, Maryland.

Subsec. (b). Pub. L. 102-320, §1(3), (4), amended first sentence generally, striking out reference to not more than sixteen acres of non-Federal property on the mainland in Worcester County, Maryland, and inserted at end "Notwithstanding the acreage limitation set forth in sections 459f to 459f-11 of this title, the Secretary is authorized to accept the donation of a scenic easement covering the parcel of land adjacent to the seashore and known as the 'Woodcock Property'."

1990—Subsecs. (a), (b). Pub. L. 101-512 substituted "sixteen acres" for "ten acres" wherever appearing.

**§ 459f-2. Compensation for bridge construction costs; acquisition of land for park purposes**

**(a) Bridge construction costs; compensation of State; limitation of amount**

If the bridge from Sandy Point to Assateague Island is operated by the State of Maryland as a toll-free facility, the Secretary is authorized and directed to compensate said State in the amount of two-thirds of the cost of constructing the bridge, including the cost of bridge approaches, engineering, and all other related costs, but the total amount of such compensation shall be not more than \$1,000,000; and he is authorized to enter into agreements with the State of Maryland relating to the use and management of the bridge.

**(b) Acquisition or lease of Federal lands for State park purposes; terms and conditions; reversion upon noncompliance; consideration for lease; amount of payment for conveyance of title and improvements; limitation of reimbursement for beach protection**

The State of Maryland shall have the right to acquire or lease from the United States such lands, or interests therein, on the island north of the area now used as a State park as the State may from time to time determine to be needed for State park purposes, and the Secretary is authorized and directed to convey or lease such lands, or interests therein, to the State for such purposes upon terms and conditions which he deems will assure its public use in harmony with the purposes of sections 459f to 459f-11 of this title. In the event any of such terms and conditions are not complied with, all the property, or any portion thereof, shall, at the option of the Secretary, revert to the United States, in its then existing condition. Any lease hereunder shall be for such consideration as the Secretary deems equitable; and any conveyance of title to land hereunder may be made only upon payment by the State of such amounts of money as were expended by the United States to acquire such land, or interests therein, and upon payments of such amounts as will reimburse the United States for the cost of any improvements placed thereon by the United States, including the cost to it of beach protection: *Provided*, That reimbursement for beach protection shall not exceed 30 per centum, as determined by the Secretary, of the total cost of the United States of such protection work.

(Pub. L. 89-195, § 3, Sept. 21, 1965, 79 Stat. 825.)

**§ 459f-3. Establishment of Seashore; notice in Federal Register**

When the Secretary determines that land, water areas, or interests therein within the area generally depicted on the map referred to in section 459f of this title are owned or have been acquired by the United States in sufficient quantities to provide an administrable unit, he shall declare the establishment of the Assateague Island National Seashore by publication of notice thereof in the Federal Register. Such notice shall contain a refined description or map of the boundaries of the seashore as the Secretary may find desirable, and the exterior boundaries shall encompass an area as nearly as practicable identical to the area described in section 459f of this title.

(Pub. L. 89-195, § 4, Sept. 21, 1965, 79 Stat. 825.)

**§ 459f-4. Hunting and fishing provisions**

The Secretary shall permit hunting and fishing on land and waters under his control within the seashore in accordance with the appropriate State laws, to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management or public use and enjoyment: *Provided*, That nothing in sections 459f to 459f-11 of this title, shall limit or interfere with the authority of the

States to permit or to regulate shellfishing in any waters included in the national seashore: *Provided further*, That nothing in said sections shall add to or limit the authority of the Federal Government in its administration of Federal laws regulating migratory waterfowl. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities. The provisions of this section shall not apply to the Chincoteague National Wildlife Refuge.

(Pub. L. 89-195, § 5, Sept. 21, 1965, 79 Stat. 826.)

**§ 459f-5. Administration of Seashore**

**(a) Public outdoor recreation and enjoyment; utilization of other authorities**

Except as provided in subsection (b) of this section, the Secretary shall administer the Assateague Island National Seashore for general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore and the administrative site the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authority otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of sections 459f to 459f-11 of this title.

**(b) Refuge land and waters; application of national wildlife refuge provisions; public recreation uses in accordance with provisions for national conservation recreational areas**

Notwithstanding any other provision of sections 459f to 459f-11 of this title, land and waters in the Chincoteague National Wildlife Refuge, which are a part of the seashore, shall be administered for refuge purposes under laws and regulations applicable to national wildlife refuges, including administration for public recreation uses in accordance with the provisions of the Act of September 28, 1962 (Public law 87-714; 76 Stat. 653) [16 U.S.C. 460k et seq.].

**(c) Cooperative agreements and technical assistance to protect seashore resources**

The Secretary is authorized to enter into cooperative agreements with local, State, and Federal agencies and with educational institutions and nonprofit entities to coordinate research designed to ensure full protection of the natural and cultural resources of the seashore, consistent with the purposes for which the seashore was established, and other applicable law. The Secretary is also authorized to provide technical assistance to local, State, and Federal agencies and to educational institutions and non-profit entities in order to further such purposes. The Secretary shall submit a report every two years to the Congress on the results of the coordinated research program authorized by this section and plans to implement the recommendations arising from such research.

(Pub. L. 89-195, § 6, Sept. 21, 1965, 79 Stat. 826; Pub. L. 102-320, § 1(5), July 10, 1992, 106 Stat. 321.)

## REFERENCES IN TEXT

Act of September 28, 1962, referred to in subsec. (b), popularly known as the Refuge Recreation Act, is classified generally to subchapter LXVIII (§ 460k et seq.) of this chapter.

## AMENDMENTS

1992—Subsec. (c). Pub. L. 102-320 added subsec. (c).

DESIGNATION OF CENTER TO HONOR HERBERT H. BATEMAN

Pub. L. 106-480, Nov. 9, 2000, 114 Stat. 2186, provided that:

## “SECTION 1. DESIGNATION.

“A building proposed to be located within the boundaries of the Chincoteague National Wildlife Refuge, on Assateague Island, Virginia, shall be known and designated as the ‘Herbert H. Bateman Education and Administrative Center’.

## “SEC. 2. REFERENCES.

“Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the ‘Herbert H. Bateman Education and Administrative Center’.”

Similar provisions were contained in Pub. L. 106-369, § 8, Oct. 27, 2000, 114 Stat. 1419.

Pub. L. 106-291, title I, § 141, Oct. 11, 2000, 114 Stat. 949, provided that the building housing the visitors center within the boundaries of the Chincoteague National Wildlife Refuge on Assateague Island, Virginia, was to be known and designated as the “Herbert H. Bateman Educational and Administrative Center”.

**§ 459f-6. Repealed. Pub. L. 94-578, title III, § 301, Oct. 21, 1976, 90 Stat. 2733**

Section, Pub. L. 89-195, § 7, Sept. 21, 1965, 79 Stat. 826, made provision for the construction of overnight and other public accommodation facilities, land selection and land fill, concession facilities, and the promulgation of rules and regulations covering those areas by the Secretary of the Interior. See section 459f-11 of this title.

**§ 459f-7. Beach erosion control and hurricane protection**

The Secretary of the Interior and the Secretary of the Army shall cooperate in the study and formulation of plans for beach erosion control and hurricane protection of the seashore; and any such protective works that are undertaken by the Chief of Engineers, Department of the Army, shall be carried out in accordance with a plan that is acceptable to the Secretary of the Interior and is consistent with the purposes of sections 459f to 459f-11 of this title.

(Pub. L. 89-195, § 8, Sept. 21, 1965, 79 Stat. 827.)

**§ 459f-8. Repealed. Pub. L. 94-578, title III, § 301, Oct. 21, 1976, 90 Stat. 2733**

Section, Pub. L. 89-195, § 9, Sept. 21, 1965, 79 Stat. 827, authorized and directed the Secretary of the Interior to construct and maintain a road from the Chincoteague-Assateague Island Bridge to an area in the wildlife refuge that he deemed appropriate for recreation purposes and to acquire the necessary lands and rights-of-way for a road from the Chincoteague-Assateague Island Bridge to the Sandy Point-Assateague Bridge. See section 459f-11 of this title.

**§ 459f-9. Public utility facilities; purchase of facilities without value to utility; amount of payment**

The Secretary of the Interior is authorized to purchase from a public utility any facilities of

that utility which are no longer of value to it as a result of the establishment of the Assateague Island National Seashore and shall pay for such facilities an amount equal to the cost of constructing such facilities less depreciation.

(Pub. L. 89-195, § 10, Sept. 21, 1965, 79 Stat. 827.)

**§ 459f-10. Authorization of appropriations**

There are hereby authorized to be appropriated the sum of not more than \$22,400,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States) for the acquisition of lands and interests in land and such sums as may be necessary for the development of the area authorized under sections 459f to 459f-11 of this title.

(Pub. L. 89-195, § 11, Sept. 21, 1965, 79 Stat. 827; Pub. L. 92-272, title I, § 101(1), Apr. 11, 1972, 86 Stat. 120; Pub. L. 94-578, title I, § 101(2), Oct. 21, 1976, 90 Stat. 2732.)

## AMENDMENTS

1976—Pub. L. 94-578 substituted “\$22,400,000” for “\$21,050,000”.

1972—Pub. L. 92-272 substituted “\$21,050,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States)” for “\$16,250,000”.

**§ 459f-11. Comprehensive plan for protection, management, and use of seashore****(a) Contents; transmittal to Congressional committees**

Within two years of October 21, 1976, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives a comprehensive plan for the protection, management, and use of the seashore, to include but not be limited to the following considerations:

(1) measures for the full protection and management of the natural resources and natural ecosystems of the seashore;

(2) present and proposed uses of the seashore and the lands and waters adjacent or related thereto, the uses of which would reasonably be expected to influence the administration, use, and environmental quality of the seashore;

(3) plans for the development of facilities necessary and appropriate for visitor use and enjoyment of the seashore, with identification of resource and user carrying capacities, along with the anticipated costs for all proposed development;

(4) plans for visitor transportation systems integrated and coordinated with lands and facilities adjacent to, but outside of, the seashore; and

(5) plans for fostering the development of cooperative agreements and land and resource use patterns outside the seashore which would be compatible with the protection and management of the seashore.

**(b) Consultation by other Federal agencies with Secretary**

Notwithstanding any other provision of law, no Federal loan, grant, license, or other form of assistance for any project which, in the opinion

of the Secretary would significantly adversely affect the administration, use, and environmental quality of the seashore shall be made, issued, or approved by the head of any Federal agency without first consulting with the Secretary to determine whether or not such project is consistent with the plan developed pursuant to this section and allowing him at least thirty days to comment in writing on such proposed action.

(Pub. L. 89-195, § 12, as added Pub. L. 94-578, title III, § 301, Oct. 21, 1976, 90 Stat. 2733.)

#### CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

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.

#### § 459g. Cape Lookout National Seashore; purposes; authorization for establishment; description of area

In order to preserve for public use and enjoyment an area in the State of North Carolina possessing outstanding natural and recreational values, there is hereby authorized to be established the Cape Lookout National Seashore (hereinafter referred to as "seashore"), which shall comprise the lands and adjoining marshlands and waters on the outer banks of Carteret County, North Carolina, between Ocracoke Inlet and Beaufort Inlet, as generally depicted on the map entitled "Boundary Map, Cape Lookout National Seashore", dated March 1974, and numbered 623-20,009, which is on file in the Office of the National Park Service, Department of the Interior.

(Pub. L. 89-366, § 1, Mar. 10, 1966, 80 Stat. 33; Pub. L. 93-477, title IV, § 406(1), Oct. 26, 1974, 88 Stat. 1448.)

#### AMENDMENTS

1974—Pub. L. 93-477 substituted "Boundary Map, Cape Lookout National Seashore", dated March 1974, and numbered 623-20,009" for "Proposed Boundaries—Proposed Cape Lookout National Seashore", dated April 1964, and numbered NS-CL-7101-B", and struck out proviso relating to certain property not to be included in seashore.

#### § 459g-1. Acquisition of property

##### (a) Transfer from Federal agency to administrative jurisdiction of Secretary; non-Federal lands

Notwithstanding any other provision of law, Federal property located within the boundaries of the Cape Lookout National Seashore may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary of the Interior for the purposes of the seashore. Such transfer shall be made without transfer of funds. Lands owned by the State of North Carolina or any po-

litical subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 459g-6 of this title, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes. Land donated by the State of North Carolina pursuant to this subsection shall constitute consideration for the transfer by the United States of 1.5 acres of land that is to be used as a site for a public health facility in the village of Hatteras, Dare County, North Carolina.

##### (b) Exchange of property; cash equalization payments

When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property in the State of North Carolina under his jurisdiction which he classifies as proper for exchange or other disposition. Failing to effectuate an exchange of properties of approximately equal fair market value, the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

##### (c) Owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; exclusion of property necessary for public use and access; election of term

Any person who on January 1, 1966, owned property which on July 1, 1963, was developed and used for noncommercial residential purposes may reserve for himself and his assigns, as a condition to the purchase or acquisition by exchange of such property by the Secretary, a right of use and occupancy of the residence and not in excess of three acres of land on which the residence is situated, for noncommercial residential purposes for a term ending at the death of the owner, or the death of his spouse, or the death of either of them, or, in lieu thereof, for a definite term not to exceed twenty-five years: *Provided*, That the Secretary may exclude from such reserved property any marsh, beach, or waters, together with so much of the land adjoining such marsh, beach, or waters as he deems necessary for public access thereto. The owner shall elect the term of the right to be reserved. The Secretary is authorized to accept donations of property for purposes of the seashore in which a right of use and occupancy for noncommercial residential purposes is reserved for the period stated in this subsection if the land on which the residence is situated and to which the right attaches is not in excess of three acres and there is excluded from the reserved property such marsh, beach, or waters and adjoining land as the Secretary deems necessary for public use and access thereto.

**(d) Termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right**

A right of use and occupancy reserved in lands that are donated or otherwise acquired pursuant to this section shall be subject to termination by the Secretary upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459g to 459g-7 of this title and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

**(e) Administrative site; landing dock and related approach or access facilities**

The Secretary of the Interior is authorized to purchase with donated or appropriated funds, or acquire by exchange, not to exceed one hundred acres of lands or interests in lands at or near Beaufort, North Carolina, as an administrative site, and for a landing dock and related facilities that may be used to provide a suitable approach or access to the seashore.

(Pub. L. 89-366, § 2, Mar. 10, 1966, 80 Stat. 34; Pub. L. 93-477, title IV, § 406(2), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-477 substituted provisions relating to acquisition by donation of lands owned by the State of North Carolina and acquisition by donation, purchase or exchange of non-Federal lands, marshlands, etc., and acceptance of lands donated by North Carolina, for provisions relating to acquisition of non-Federal lands, marshlands, etc., by donation only and acquisition by exchange lands comprising the Shackleford Banks.

**§ 459g-2. Establishment; notice in Federal Register; copies to Congress**

When title to lands and interests in lands in an amount sufficient to constitute an efficiently administrable<sup>1</sup> unit for the purposes of sections 459g to 459g-7 of this title is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register. Such notice shall contain a refined description or map of the boundaries of the seashore as the Secretary may find desirable and such exterior boundaries shall encompass, as nearly as possible, the area generally described in section 459g of this title. Copies of said description or map shall be furnished to the Speaker of the House and the President of the Senate not less than thirty days prior to publication in the Federal Register. Following such establishment, and subject to the limitations and conditions prescribed in sections 459g to 459g-7 of this title, the Secretary may, subject to the provisions of section 459g-1 of this title, acquire the remainder of the lands and interests in lands within the boundaries of the seashore.

(Pub. L. 89-366, § 3, Mar. 10, 1966, 80 Stat. 35; Pub. L. 93-477, title IV, § 406(3), Oct. 26, 1974, 88 Stat. 1448.)

<sup>1</sup> So in original. Probably should be "administrable".

AMENDMENTS

1974—Pub. L. 93-477 substituted "in an amount sufficient to constitute an efficiently administrable [sic] unit for the purposes of sections 459g to 459g-7 of this title" for "which under section 459g-1(a) of this title may be acquired for the purposes of the seashore by donation only", and "establishment of the seashore by publication" for "establishment of the Cape Lookout National Seashore by publication".

**§ 459g-3. Hunting and fishing provisions**

The Secretary shall permit hunting and fishing, including shellfishing, on lands, marshlands, and waters under his jurisdiction within the Cape Lookout National Seashore in accordance with the laws of the State of North Carolina and the United States, to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the North Carolina Wildlife Resources Commission and the North Carolina Department of Conservation and Development.

(Pub. L. 89-366, § 4, Mar. 10, 1966, 80 Stat. 35.)

**§ 459g-4. Administration; public outdoor recreation and enjoyment; utilization of authorities for conservation and development of natural resources**

(a) The Secretary shall administer the Cape Lookout National Seashore for the general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore and the administrative site, the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of sections 459g to 459g-7 of this title.

(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of not less than 110 free roaming horses, with a target population of between 120 and 130 free roaming horses, in Cape Lookout National Seashore (hereinafter referred to as the "Seashore"): *Provided*, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).

(2) Within 180 days after July 16, 1998, the Secretary shall enter into an agreement with the Foundation for Shackleford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—

(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and

(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.

(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—

(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or

(B) unless removal is carried out as part of a plan to maintain the viability of the herd; or

(C) except in the case of an emergency, or to protect public health and safety.

(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.

(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 110 as a result of natural causes, including, but not limited to, disease or natural disasters.

(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore.

(Pub. L. 89-366, § 5, Mar. 10, 1966, 80 Stat. 35; Pub. L. 105-202, § 2, July 16, 1998, 112 Stat. 676; Pub. L. 105-229, § 1, Aug. 13, 1998, 112 Stat. 1517; Pub. L. 109-117, § 1, Dec. 1, 2005, 119 Stat. 2526.)

#### AMENDMENTS

2005—Subsec. (a). Pub. L. 109-117, § 1(b)(1), struck out “(a)” after “(a)”.

Subsec. (b). Pub. L. 109-117, § 1(b)(2), struck out the subsec. (b) added by Pub. L. 105-229, which was identical to the subsec. (b) added by Pub. L. 105-202.

Subsec. (b)(1). Pub. L. 109-117, § 1(a)(1), substituted “not less than 110 free roaming horses, with a target population of between 120 and 130 free roaming horses,” for “100 free roaming horses”.

Subsec. (b)(3)(B). Pub. L. 109-117, § 1(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or”.

Subsec. (b)(5). Pub. L. 109-117, § 1(a)(3), substituted “110” for “100”.

1998—Pub. L. 105-229 directed an amendment identical to that in Pub. L. 105-202 resulting in the insertion of “(a)” before “(a)” in subsec. (a) and the addition of a second, identical subsec. (b).

Pub. L. 105-202 designated existing provisions as subsec. (a) and added subsec. (b).

#### § 459g-5. Shore erosion control or beach protection measures

The authority of the Chief of Engineers, Department of the Army, to undertake or contribute to shore erosion control or beach protection measures within the Cape Lookout National Seashore shall be exercised in accordance with a plan that is mutually acceptable to the Secretary of the Interior and the Secretary of the Army, and that is consistent with the purposes of sections 459g to 459g-7 of this title.

(Pub. L. 89-366, § 6, Mar. 10, 1966, 80 Stat. 35.)

#### § 459g-6. Preservation and designation as wilderness; review of area by Secretary; report to President

On or before January 1, 1978, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title.

(Pub. L. 89-366, § 7, Mar. 10, 1966, 80 Stat. 35; Pub. L. 93-477, title IV, § 406(4), Oct. 26, 1974, 88 Stat. 1449.)

#### AMENDMENTS

1974—Pub. L. 93-477 substituted provisions authorizing review of area and report to the President by the Secretary with regard to suitability of area for preservation as wilderness for provisions authorizing appropriations.

#### § 459g-7. Authorization of appropriations; master plan to Congressional committees; time; contents

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 459g to 459g-7 of this title, not to exceed \$13,903,000 for acquisition of lands and interests therein, of which no more than \$1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than \$2,935,000. On or before January 1, 1978, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of sections 459g to 459g-7 of this title, indicating—

(1) the facilities needed to accommodate the health, safety and recreation needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the seashore.

(Pub. L. 89-366, § 8, as added Pub. L. 93-477, title IV, § 406(5), Oct. 26, 1974, 88 Stat. 1449; amended Pub. L. 98-141, § 4, Oct. 31, 1983, 97 Stat. 909.)

#### CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the “Committee System Reorganization Amendments of 1977”), approved Feb. 4, 1977.

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.

#### AMENDMENTS

1983—Pub. L. 98-141 substituted “\$13,903,000” for “\$7,903,000”.

## § 459h. Gulf Islands National Seashore

### (a) Establishment

In order to preserve for public use and enjoyment certain areas possessing outstanding natural, historic, and recreational values, the Secretary of the Interior (hereinafter referred to as the "Secretary") may establish and administer the Gulf Islands National Seashore (hereinafter referred to as the "seashore").

### (b) Composition

#### (1) In general

The seashore shall comprise the areas described in paragraphs (2) and (3).

#### (2) Areas included in boundary plan numbered NS-GI-7100J

The areas described in this paragraph are the following gulf coast islands and mainland areas, together with adjacent water areas as generally depicted on the drawing entitled "Proposed Boundary Plan, Proposed Gulf Islands National Seashore," numbered NS-GI-7100J, and dated December 1970:

(A) Ship, Petit Bois, and Horn Islands in Mississippi;

(B) the eastern portion of Perdido Key in Florida;

(C) Santa Rosa Island in Florida;

(D) the Naval Live Oaks Reservation in Florida;

(E) Fort Pickens and the Fort Pickens State Park in Florida; and

(F) a tract of land in the Pensacola Naval Air Station in Florida that includes the Coast Guard Station and Lighthouse, Fort San Carlos, Fort Barrancas, and Fort Redoubt and sufficient surrounding land for proper administration and protection of the historic resources.

#### (3) Cat Island

Upon its acquisition by the Secretary, the area described in this paragraph is the parcel consisting of approximately 2,000 acres of land on Cat Island, Mississippi, as generally depicted on the map entitled "Boundary Map, Gulf Islands National Seashore, Cat Island, Mississippi", numbered 635/80085, and dated November 9, 1999 (referred to in sections 459h to 459h-10 of this title<sup>1</sup> as the "Cat Island Map").

#### (4) Availability of Map

The Cat Island Map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(Pub. L. 91-660, § 1, Jan. 8, 1971, 84 Stat. 1967; Pub. L. 106-554, § 1(a)(4) [div. B, title I, § 137(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-231.)

#### REFERENCES IN TEXT

Sections 459h to 459h-10 of this title, referred to in subsec. (b)(3), was in the original "this title", and was translated as reading "this Act", meaning Pub. L. 91-660, which enacted sections 459h to 459h-10 of this title, to reflect the probable intent of Congress, because Pub. L. 91-660 does not contain titles.

#### AMENDMENTS

2000—Pub. L. 106-554 inserted section catchline and subsec. (a) designation and heading, substituted "In

order" for "That, in order", inserted subsec. (b) designation and heading, added par. (1), inserted par. (2) designation and heading and substituted "The areas described in this paragraph are" for "The seashore shall comprise", redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (2), realigned margins, and added pars. (3) and (4).

### § 459h-1. Acquisition of property

#### (a) Authority of Secretary; concurrence of State owner; administrative site and related facilities; transfer from Federal agency to administrative jurisdiction of Secretary

Within the boundaries of the seashore, the Secretary may acquire submerged land, land, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by a State or any political subdivision thereof may be acquired only with the consent of the owner. The Secretary may acquire by any of the above methods not more than four hundred acres of land or interests therein outside of the seashore boundaries on the mainland in the vicinity of Biloxi-Gulfport, Mississippi, for an administrative site and related facilities for access to the seashore. With the concurrence of the agency having custody thereof, any Federal property within the seashore and mainland site may be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the seashore.

#### (b) Improved residential property owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; election by owner; transfer or assignment of right; adjustment of compensation

With respect to improved residential property acquired for the purposes of sections 459h to 459h-10 of this title, which is beneficially owned by a natural person and which the Secretary of the Interior determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the seashore, the owner thereof may on the date of its acquisition by the Secretary retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (1) at the death of the owner or his spouse, whichever occurs later, or (2) not more than twenty-five years from the date of acquisition. Any right so retained may during its existence be transferred or assigned. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less their<sup>1</sup> fair market value on such date of the right retained by the owner.

#### (c) "Improved residential property" defined

As used in sections 459h to 459h-10 of this title, "improved residential property" means a single-family year-round dwelling, the construction of which began before January 1, 1967, and which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located that the Secretary finds is

<sup>1</sup> See References in Text note below.

<sup>1</sup> So in original. Probably should be "the".

reasonably necessary for the owner's continued use and occupancy of the dwelling: *Provided*, That the Secretary may exclude from improved residential property any marsh, beach, or waters and adjoining land that the Secretary deems is necessary for public access to such marsh, beach, or waters.

**(d) Termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right**

The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459h to 459h-10 of this title, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

**(e) Acquisition authority**

**(1) In general**

The Secretary may acquire, from a willing seller only—

(A) all land comprising the parcel described in subsection (b)(3)<sup>2</sup> that is above the mean line of ordinary high tide, lying and being situated in Harrison County, Mississippi;

(B) an easement over the approximately 150-acre parcel depicted as the "Boddie Family Tract" on the Cat Island Map for the purpose of implementing an agreement with the owners of the parcel concerning the development and use of the parcel; and

(C)(i) land and interests in land on Cat Island outside the 2,000-acre area depicted on the Cat Island Map; and

(ii) submerged land that lies within 1 mile seaward of Cat Island (referred to in sections 459h to 459h-10 of this title<sup>2</sup> as the "buffer zone"), except that submerged land owned by the State of Mississippi (or a subdivision of the State) may be acquired only by donation.

**(2) Administration**

**(A) In general**

Land and interests in land acquired under this subsection shall be administered by the Secretary, acting through the Director of the National Park Service.

**(B) Buffer zone**

Nothing in sections 459h to 459h-10 of this title<sup>2</sup> or any other provision of law shall require the State of Mississippi to convey to the Secretary any right, title, or interest in or to the buffer zone as a condition for the establishment of the buffer zone.

**(3) Modification of boundary**

The boundary of the seashore shall be modified to reflect the acquisition of land under this subsection only after completion of the acquisition.

(Pub. L. 91-660, §2, Jan. 8, 1971, 84 Stat. 1967; Pub. L. 92-275, §1(1), Apr. 20, 1972, 86 Stat. 123; Pub. L.

106-554, §1(a)(4) [div. B, title I, §137(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-231.)

REFERENCES IN TEXT

Subsection (b)(3), referred to in subsec. (e)(1)(A), probably means subsection (b)(3) of section 459h of this title. Subsection (b) of this section does not contain a par. (3).

Sections 459h to 459h-10 of this title, referred to in subsec. (e)(1)(C)(ii), (2)(B), was in the original "this title", and was translated as reading "this Act", meaning Pub. L. 91-660, which enacted sections 459h to 459h-10 of this title, to reflect the probable intent of Congress, because Pub. L. 91-660 does not contain titles.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-554, §1(a)(4) [div. B, title I, §137(b)(1)], substituted "submerged land, land," for "lands," in first sentence.

Subsec. (e). Pub. L. 106-554, §1(a)(4) [div. B, title I, §137(b)(2)], added subsec. (e).

1972—Subsec. (a). Pub. L. 92-275 increased amount of property authorized to be acquired from one hundred thirty-five to four hundred acres.

**§ 459h-2. Designation of hunting and fishing zones; regulation of maritime activities**

**(a) In general**

The Secretary shall permit hunting and fishing on lands and waters within the seashore in accordance with applicable Federal and States laws: *Provided*, That he may designate zones where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

**(b) No authority to regulate maritime activities**

Nothing in sections 459h to 459h-10 of this title<sup>1</sup> or any other provision of law shall affect any right of the State of Mississippi, or give the Secretary any authority, to regulate maritime activities, including nonseashore fishing activities (including shrimping), in any area that, on December 21, 2000, is outside the designated boundary of the seashore (including the buffer zone).

(Pub. L. 91-660, §3, Jan. 8, 1971, 84 Stat. 1968; Pub. L. 106-554, §1(a)(4) [div. B, title I, §137(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-232.)

REFERENCES IN TEXT

Sections 459h to 459h-10 of this title, referred to in subsec. (b), was in the original "this title", and was translated as reading "this Act", meaning Pub. L. 91-660, which enacted sections 459h to 459h-10 of this title, to reflect the probable intent of Congress, because Pub. L. 91-660 does not contain titles.

AMENDMENTS

2000—Pub. L. 106-554 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**§ 459h-3. Rights-of-way or easements for transportation of oil and gas minerals**

Any acquisition of lands, waters, or interests therein shall not diminish any existing rights-

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

<sup>1</sup> See References in Text note below.

of-way or easements which are necessary for the transportation of oil and gas minerals through the seashore which oil and gas minerals are removed from outside the boundaries thereof; and, the Secretary, subject to appropriate regulations for the protection of the natural and recreational values for which the seashore is established, shall permit such additional rights-of-way or easements as he deems necessary and proper.

(Pub. L. 91-660, §4, Jan. 8, 1971, 84 Stat. 1968.)

**§ 459h-4. Administration of seashore; conservation and management of wildlife and natural resources; authority to designate areas as national historic sites; agreements**

**(a) In general**

Except as otherwise provided in sections 459h to 459h-10 of this title, the Secretary shall administer the seashore in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented. In the administration of the seashore the Secretary may utilize such statutory authorities available to him for the conservation and management of wildlife natural resources as he deems appropriate to carry out the purposes of sections 459h to 459h-10 of this title. With respect to Fort Redoubt, Fort San Carlos, Fort Barrancas at Pensacola Naval Air Station, Fort Pickens on Santa Rosa Island, and Fort McRee on Perdido Key, Florida, and Fort Massachusetts on Ship Island, Mississippi, together with such adjacent lands as the Secretary may designate, the Secretary shall administer such lands so as to recognize, preserve, and interpret their national historical significance in accordance with sections 461 to 467 of this title, and he may designate them as national historic sites.

**(b) Agreements**

**(1) In general**

The Secretary may enter into agreements—

(A) with the State of Mississippi for the purposes of managing resources and providing law enforcement assistance, subject to authorization by State law, and emergency services on or within any land on Cat Island and any water and submerged land within the buffer zone; and

(B) with the owners of the approximately 150-acre parcel depicted as the “Boddie Family Tract” on the Cat Island Map concerning the development and use of the land.

**(2) No authority to enforce certain regulations**

Nothing in this subsection authorizes the Secretary to enforce Federal regulations outside the land area within the designated boundary of the seashore.

(Pub. L. 91-660, §5, Jan. 8, 1971, 84 Stat. 1968; Pub. L. 106-554, §1(a)(4) [div. B, title I, §137(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-232.)

AMENDMENTS

2000—Pub. L. 106-554 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**§ 459h-5. Beach erosion control and hurricane protection; study and formulation of plans; activities by Chief of Engineers, Department of Army**

The Secretary of the Interior and the Secretary of the Army may cooperate in the study and formulation of plans for beach erosion control and hurricane protection of the seashore. Any such protective works or spoil deposit activities undertaken by the Chief of Engineers, Department of the Army, shall be carried out within the seashore in accordance with a plan that is acceptable to the Secretary of the Interior and that is consistent with the purposes of sections 459h to 459h-10 of this title.

(Pub. L. 91-660, §6, Jan. 8, 1971, 84 Stat. 1969.)

**§ 459h-6. Transfer of Horn Island and Petit Bois National Wildlife Refuges from National Wildlife Refuge System; administration**

(a) There are hereby transferred from the National Wildlife Refuge System to the seashore the Horn Island and Petit Bois National Wildlife Refuges to be administered in accordance with the provisions of sections 459h to 459h-10 of this title.

(b) If any of the Federal land on Santa Rosa or Okaloosa Island, Florida, under the jurisdiction of the Department of Defense is ever excess to the needs of the Armed Forces, the Secretary of Defense shall transfer the excess land to the administrative jurisdiction of the Secretary of the Interior, subject to the terms and conditions acceptable to the Secretary of the Interior and the Secretary of Defense. The Secretary of the Interior shall administer the transferred land as part of the seashore in accordance with the provisions of sections 459h to 459h-10 of this title.

(Pub. L. 91-660, §7, Jan. 8, 1971, 84 Stat. 1969; Pub. L. 109-163, div. B, title XXVIII, §2872(b), Jan. 6, 2006, 119 Stat. 3535.)

AMENDMENTS

2006—Pub. L. 109-163 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF EXCESS DEPARTMENT OF DEFENSE PROPERTY ON SANTA ROSA AND OKALOOSA ISLAND, FLORIDA, TO GULF ISLANDS NATIONAL SEASHORE

Pub. L. 109-163, div. B, title XXVIII, §2872(a), Jan. 6, 2006, 119 Stat. 3534, provided that: “Congress finds the following:

“(1) Public Law 91-660 of the 91st Congress [16 U.S.C. 459h et seq.] established the Gulf Islands National Seashore in the States of Florida and Mississippi.

“(2) The original boundaries of the Gulf Islands National Seashore encompassed certain Federal land used by the Air Force and the Navy, and the use of such land was still required by the Armed Forces when the seashore was established.

“(3) Senate Report 91-1514 of the 91th Congress addressed the relationship between these military lands and the Gulf Islands National Seashore as follows: ‘While the military use of these lands is presently required, they remain virtually free of adverse development and they are included in the boundaries of the seashore so that they can be wholly or partially transferred to the Department of the Interior when they become excess to the needs of the Air Force.’

“(4) Although section 2(a) of Public Law 91-660 (16 U.S.C. 459h-1(a)) authorized the eventual transfer of

Federal land within the boundaries of the Gulf Islands National Seashore from the Department of Defense to the Secretary of the Interior, an amendment mandating the transfer of excess Department of Defense land on Santa Rosa and Okaloosa Island, Florida, to the Secretary of the Interior is required to ensure that the purposes of the Gulf Islands National Seashore are fulfilled.”

**§ 459h-7. Preservation of any area as wilderness; study and report to President; procedure for designation of any area as a wilderness**

Within four years from January 8, 1971, the Secretary of the Interior shall review the area within the Gulf Islands National Seashore and shall report to the President, in accordance with subsections (c) and (d) of section 1132 of this title, and recommend as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said subsections.

(Pub. L. 91-660, § 8, Jan. 8, 1971, 84 Stat. 1969.)

**§ 459h-8. Authority of Department of Army or Chief of Engineers over navigation or related matters**

No provision of sections 459h to 459h-10 of this title, or of any other Act made applicable thereby, shall be construed to affect, supersede, or modify any authority of the Department of the Army or the Chief of Engineers, with respect to navigation or related matters except as specifically provided in section 459h-5 of this title.

(Pub. L. 91-660, § 9, Jan. 8, 1971, 84 Stat. 1969.)

**§ 459h-9. Gulf Islands National Seashore Advisory Commission; establishment; termination; membership; term; Chairman; compensation and payment of expenses; consultation by Secretary**

There is hereby established a Gulf Islands National Seashore Advisory Commission. The Commission shall terminate ten years after the date the seashore is established pursuant to sections 459h to 459h-10 of this title. The Commission shall be composed of three members from each county in which the seashore is located, each appointed for a term of two years by the Secretary as follows:

- (1) one member to be appointed from recommendations made by the county commissioners in the respective counties;
- (2) one member to be appointed from recommendations made by the Governor of the State from each county; and
- (3) one member to be designated by the Secretary from each county.

*Provided*, That two members shall be appointed to the Advisory Commission in each instance in counties whose population exceeds one hundred thousand.

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its re-

sponsibilities under sections 459h to 459h-10 of this title on vouchers signed by the Chairman.

The Secretary or his designee shall, from time to time, consult with the Commission with respect to the matters relating to the development of the Gulf Islands National Seashore.

(Pub. L. 91-660, § 10, Jan. 8, 1971, 84 Stat. 1969.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission 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.

**§ 459h-10. Authorization of appropriations**

**(a) In general**

There are authorized to be appropriated not more than \$22,162,000 for the acquisition of lands and interests in lands and not more than \$24,224,000 for development.

**(b) Authorization for acquisition of land**

In addition to the funds authorized by subsection (a) of this section, there are authorized to be appropriated such sums as are necessary to acquire land and submerged land on and adjacent to Cat Island, Mississippi.

(Pub. L. 91-660, § 11, Jan. 8, 1971, 84 Stat. 1970; Pub. L. 92-275, § 1(2), Apr. 20, 1972, 86 Stat. 123; Pub. L. 94-578, title I, § 101(6), Oct. 21, 1976, 90 Stat. 2732; Pub. L. 95-625, title I, § 101(13), Nov. 10, 1978, 92 Stat. 3471; Pub. L. 106-554, § 1(a)(4) [div. B, title I, § 137(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A-232.)

AMENDMENTS

2000—Pub. L. 106-554 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1978—Pub. L. 95-625 substituted “\$24,224,000 for development.” for “\$17,774,000 (June 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.”

1976—Pub. L. 94-578 substituted “\$22,162,000” for “\$3,462,000”.

1972—Pub. L. 92-275 increased appropriations authorization for lands and land interests from \$3,120,000 to \$3,462,000 and for development from \$14,779,000 (1970 prices) to \$17,774,000 (June 1970 prices).

**§ 459i. Cumberland Island National Seashore; establishment; boundary revisions; notification of Congressional committees, publication in Federal Register**

In order to provide for public outdoor recreation use and enjoyment of certain significant shoreline lands and waters of the United States, and to preserve related scenic, scientific, and historical values, there is established in the State of Georgia the Cumberland Island National Seashore (hereinafter referred to as the “seashore”) consisting of the area generally depicted on the drawing entitled “Boundary Map,

Cumberland Island National Seashore”, numbered CUIS 40,000E, and dated January 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the “Secretary”) may after notifying the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives in writing, make minor adjustments in the boundary of the seashore from time to time by publication of a revised drawing or other boundary description in the Federal Register, but the total acreage within the boundaries shall not exceed forty thousand five hundred acres.

(Pub. L. 92-536, §1, Oct. 23, 1972, 86 Stat. 1066; Pub. L. 95-625, title III, §323, Nov. 10, 1978, 92 Stat. 3489; Pub. L. 98-170, Nov. 29, 1983, 97 Stat. 1116; Pub. L. 103-437, §6(l), Nov. 2, 1994, 108 Stat. 4586.)

#### AMENDMENTS

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

1983—Pub. L. 98-170 substituted “CUIS 40,000E” for “CUIS 40,000D”.

1978—Pub. L. 95-625 substituted reference to Boundary Map “numbered CUIS 40,000D, and dated January 1978” for “numbered CUIS—40,000B, and dated June 1971”.

#### SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-447, div. E, title I, §145(c), Dec. 8, 2004, 118 Stat. 3074, provided that: “This section [amending section 459i-5 of this title and provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the ‘Cumberland Island Wilderness Boundary Adjustment Act of 2004’.”

#### § 459i-1. Acquisition of lands; authority of Secretary; mainland lands for access to seashore administrative and visitor facilities; State lands; transfer from Federal agency to administrative jurisdiction of Secretary

Within the boundaries of the seashore, the Secretary may acquire lands, waters, and interests therein by purchase, donation, transfer from any Federal agency, or exchange. The Secretary may also acquire not to exceed one hundred acres of lands or interests in lands on the mainland to provide access to the administrative and visitor facilities for the seashore. Any lands or interests therein owned by the State of Georgia, or any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the seashore.

(Pub. L. 92-536, §2, Oct. 23, 1972, 86 Stat. 1066.)

#### § 459i-2. Cumberland Island Parkway; right-of-way; administration; regulations

For the purpose of providing access from Interstate 95 to the mainland administrative

and visitor facilities of the seashore, the Secretary may designate as the Cumberland Island Parkway a right-of-way, together with adjacent or related sites for public noncommercial recreational use and for interpretation of scenic and historic values, of not more than one thousand acres of lands, waters, and interests therein. The Secretary is authorized to acquire only by donation those lands and interests therein, and other property comprising such right-of-way, and adjacent or related sites as he may designate pursuant to sections 459i to 459i-9 of this title for the development, hereby authorized, of a roadway of parkway standards, including necessary bridges, spurs, connecting roads, access roads, and other facilities, and for the development and interpretation of recreation areas and historic sites in connection therewith. Lands acquired for the parkway shall be administered as a part of the seashore, subject to all laws and regulations applicable thereto, and subject to such special regulations as the Secretary may promulgate for the parkway.

(Pub. L. 92-536, §3, Oct. 23, 1972, 86 Stat. 1066.)

#### § 459i-3. Acquisition of property

##### (a) Private right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; exception of property for visitor facilities or administration of seashore; compensation; contemporaneous restriction on development of public use facilities; lands, waters, and interests from National Park Foundation

With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the seashore, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner: *Provided, however,* That, in addition, for so long as a right of use and occupancy remains in effect by the donors of land of one hundred acres or more, the Secretary shall not, with respect to such lands, develop any public use facilities except for trails, road access, and utilities: *Provided further,* That when acquiring lands, waters, and interests therein from the National Park Foundation, its successors and assigns, the Secretary shall acquire such lands, waters, and interests subject to the written terms and conditions contained in those transactions, including but not limited to options, entered into by the National Park Foundation prior to January 1, 1973, and that such previous written rights and interests shall prevail over provisions of this subsection.

**(b) Commercial use prohibition; termination of use and occupancy upon tender of compensation**

A right of use and occupancy retained or enjoyed pursuant to this section may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

**(c) "Improved property" defined**

The term "improved property", as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before February 1, 1970 (hereinafter 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 accessory to the dwelling which are situated on the land so designated.

**(d) Little Cumberland Island; acquisition restrictions**

(1) In order to provide an opportunity for the establishment of a natural and scenic preserve by voluntary private action of certain owners of lands within the seashore, and notwithstanding anything to the contrary herein contained, no lands or interests in lands shall be acquired on Little Cumberland Island without the consent of the owner, for a period of one year from October 23, 1972, except as specifically otherwise provided herein.

(2) In the event that the owners of land on Little Cumberland Island enter into an irrevocable trust or some other irrevocable agreement for the preservation of the resources of Little Cumberland Island which, in the judgment of the Secretary, assures the protection of the resources in a manner consistent with the purposes for which the seashore is established, the authority of the Secretary to acquire such lands shall be suspended for such time as the trust is in effect and the lands are used and occupied in accordance therewith.

(3) If, at any time during the one-year period following October 23, 1972, the Secretary determines that any lands on Little Cumberland Island are threatened with development, or other uses, inconsistent with the establishment or continuation of the trust herein referred to, then the Secretary may acquire such lands, or interests therein, by any of the methods provided for in section 459i-1 of this title.

(Pub. L. 92-536, § 4, Oct. 23, 1972, 86 Stat. 1066.)

**§ 459i-4. Hunting and fishing**

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the seashore in accordance with the appropriate laws of Georgia and the United States to the extent applicable, except that he may designate zones where,

and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(Pub. L. 92-536, § 5, Oct. 23, 1972, 86 Stat. 1068.)

**§ 459i-5. Administration, protection, and development**

**(a) Applicability of provisions; utilization of statutory authorities**

The seashore shall be administered, protected, and developed in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459i to 459i-9 of this title.

**(b) Preservation in primitive state; recreational activities exception**

Except for certain portions of the seashore deemed to be especially adaptable for recreational uses, particularly swimming, boating, fishing, hiking, horseback riding, and other recreational activities of similar nature, which shall be developed for such uses as needed, the seashore shall be permanently preserved in its primitive state, and, except as provided in subsection (c) of this section, no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions not<sup>1</sup> prevailing, nor shall any road or causeway connecting Cumberland Island to the mainland be constructed.

**(c) Tours of the seashore**

Notwithstanding subsection (b) of this section, the Secretary may enter into not more than 3 concession contracts, as the Secretary determines appropriate, for the provision of tours for visitors to the seashore that are consistent with—

- (1) sections 459i to 459i-9 of this title;
- (2) the Wilderness Act (16 U.S.C. 1131 et seq.); and
- (3) Public Law 97-250 (96 Stat. 709).

(Pub. L. 92-536, § 6, Oct. 23, 1972, 86 Stat. 1068; Pub. L. 108-447, div. E, title I, § 145(b), Dec. 8, 2004, 118 Stat. 3073.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (c)(2), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, 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.

Public Law 97-250, referred to in subsec. (c)(3), is Pub. L. 97-250, Sept. 8, 1982, 96 Stat. 709, which enacted section 122a of this title, amended section 121 of this title,

<sup>1</sup> So in original. Probably should be "now".

and enacted provisions set out as a note under section 121 of this title and 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.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-447, §145(b)(1), inserted “, except as provided in subsection (c) of this section,” before “no development of the project”.

Subsec. (c). Pub. L. 108-447, §145(b)(2), added subsec. (c).

**§ 459i-6. State and local jurisdiction**

Nothing in sections 459i to 459i-9 of this title shall deprive the State of Georgia or any political subdivision thereof of its civil or criminal jurisdiction over persons found, acts performed, and offenses committed within the boundaries of the seashore, or of its right to tax persons, corporations, franchises, or other non-Federal property on lands included therein.

(Pub. L. 92-536, §7, Oct. 23, 1972, 86 Stat. 1068.)

**§ 459i-7. Water resource developments**

The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection and navigation improvements on land and/or waters within the Cumberland Island National Seashore shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of sections 459i to 459i-9 of this title and the purpose of existing statutes dealing with water and related land resource development.

(Pub. L. 92-536, §8, Oct. 23, 1972, 86 Stat. 1068.)

**§ 459i-8. Report to President**

Within three years from October 23, 1972, the Secretary of the Interior shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or unsuitability of any area within the national seashore for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said section 1132(c) and (d) of this title.

(Pub. L. 92-536, §9, Oct. 23, 1972, 86 Stat. 1068.)

**§ 459i-9. Authorization of appropriations**

There are authorized to be appropriated not to exceed \$28,500,000 for the acquisition of lands and interests in lands and not to exceed \$27,840,000 for development of the seashore.

(Pub. L. 92-536, §10, Oct. 23, 1972, 86 Stat. 1068; Pub. L. 95-625, title II, §201(3), Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95-625 substituted “\$28,500,000” for “\$10,500,000”.

**§ 459j. Canaveral National Seashore; establishment; boundary; boundary revisions; limitation on area**

In order to preserve and protect the outstanding natural, scenic, scientific, ecologic, and his-

toric values of certain lands, shoreline, and waters of the State of Florida, and to provide for public outdoor recreation use and enjoyment of the same, there is hereby established the Canaveral National Seashore (hereinafter referred to as the “seashore”), as generally depicted on the map entitled “Boundary Map, Canaveral National Seashore”, dated August 1974 and numbered NS-CAN-40,000A. Such seashore shall comprise approximately sixty-seven thousand five hundred acres within the area more particularly described by a line beginning at the intersection of State Highway 3 and State Road 402, thence generally easterly following State Road 402 to a point one-half mile offshore in the Atlantic Ocean, thence northwesterly along a line which is at each point one-half mile distant from the high water mark to Bethune Beach, thence inland in a generally westerly direction through Turner Flats and Shipyard Canal, thence northwesterly to the Intracoastal Waterway, thence southerly along the Intracoastal Waterway to the boundary of the Kennedy Space Center, thence southwesterly to United States Highway 1, thence southerly along State Highway 3 to the point of beginning. The boundary map shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Service and National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, at least sixty days prior to making any boundary revisions, the Secretary may from time to time make minor revisions in the boundaries of the seashore by publication of a revised map or other boundary description in the Federal Register: *Provided*, That the total acreage included within the boundaries shall not exceed that enumerated in this section.

(Pub. L. 93-626, §1, Jan. 3, 1975, 88 Stat. 2121; Pub. L. 103-437, §6(a)(4), Nov. 2, 1994, 108 Stat. 4583.)

AMENDMENTS

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

**§ 459j-1. Acquisition of property; donation and development of State lands; transfer from Federal agency to administrative jurisdiction of Secretary; written cooperative agreement with National Aeronautics and Space Administration; construction and development; report to Congressional committees**

Within the boundaries of the seashore, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. Any property owned by the State of Florida or any political subdivision thereof may be acquired only by donation. It is the intent and purpose of sections 459j to 459j-8 of this title that the Secretary shall have sole authority to develop and improve those State owned lands donated now and in the future in accordance with the intent and purposes of sections 459j to

459j-8 of this title. Notwithstanding any other provision of law, any federally owned property within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary of the Interior and he may develop and administer such lands in a manner consistent with the purposes of sections 459j to 459j-8 of this title. In accepting lands transferred by the National Aeronautics and Space Administration pursuant to sections 459j to 459j-8 of this title the Secretary shall enter into a written cooperative agreement with the Administrator to assure the use of such lands in a manner which is deemed consistent with the public safety and with the needs of the space and defense programs of the Nation: *Provided*, That no new construction or development shall be permitted within the seashore, except for the construction of such facilities as the Secretary deems necessary for the health and safety of the visiting public or for the proper administration of the seashore: *Provided further*, That after January 3, 1975, the Secretary of the Interior, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall submit to the Committees on Natural Resources and on Science, Space, and Technology of the House of Representatives and to the Committees on Energy and Natural Resources and on Commerce, Science, and Transportation of the Senate a report of all land transfers made by the National Aeronautics and Space Administration to the Department of the Interior under sections 459j to 459j-8 of this title.

(Pub. L. 93-626, §2, Jan. 3, 1975, 88 Stat. 2122; Pub. L. 103-437, §6(o), Nov. 2, 1994, 108 Stat. 4586.)

#### AMENDMENTS

1994—Pub. L. 103-437 substituted “Natural Resources and on Science, Space, and Technology of the House of Representatives and to the Committees on Energy and Natural Resources and on Commerce, Science, and Transportation of the Senate” for “Interior and Insular Affairs of the Congress and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate”.

#### ADDITIONS TO SEASHORE

Pub. L. 100-564, §§1, 3, Oct. 31, 1988, 102 Stat. 2831, authorized and directed the Secretary of the Interior to acquire certain lands depicted on a map entitled “Additions to Canaveral National Seashore”, required the Secretary to file the map with certain Congressional committees, and authorized appropriations necessary to carry out such acquisitions.

#### § 459j-2. Improved property

**(a) Owner’s reservation of right of use and occupancy for residential purposes for life or fixed term of years; exception of property for visitor facilities, access to, or administration of seashore; compensation**

Except for property deemed necessary by the Secretary for visitor facilities, or for access to or administration of the seashore, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and oc-

cupancy of the improved property for non-commercial residential purposes for a definite term not to exceed 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 the later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

**(b) Termination of use and occupancy upon inconsistent use; tender of compensation**

The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459j to 459j-8 of this title, and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

**(c) “Improved property” defined**

The term “improved property”, as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1971 (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.

**(d) Condemnation as means for acquiring clear and marketable title**

Except as otherwise provided, the Secretary shall have the authority to use condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(Pub. L. 93-626, §3, Jan. 3, 1975, 88 Stat. 2123.)

#### § 459j-3. Designation of hunting, fishing and trapping zones; regulations; consultation with appropriate State agencies

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the seashore in accordance with the appropriate laws of the State of Florida and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish and wildlife management, public use and enjoyment, protection of the resource, or competing public use. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(Pub. L. 93-626, §4, Jan. 3, 1975, 88 Stat. 2123.)

**§ 459j-4. Administration, protection, and development**

**(a) Conservation and management of natural resources**

The seashore shall be administered, protected, and developed in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459j to 459j-8 of this title.

**(b) Administration of lands in Merritt Island National Wildlife Refuge**

Notwithstanding any other provisions of sections 459j to 459j-8 of this title, lands and waters in the Merritt Island National Wildlife Refuge as described in subsection (c)(2) of this section which are part of the seashore shall be administered for refuge purposes through the United States Fish and Wildlife Service pursuant to the National Wildlife Refuge System Administration Act, as amended (80 Stat. 926; 16 U.S.C. 668dd-668ee), except that the Secretary may utilize such additional authority as may be available to him for the conservation and management of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate, consistent with the preservation of natural and wildlife values.

**(c) Division of management authority between National Park Service and United States Fish and Wildlife Service**

The Secretary shall cause to be issued a well defined division of management authority between the National Park Service and the United States Fish and Wildlife Service. It is the intent and purpose of sections 459j to 459j-8 of this title that such management authority, generally, shall be as follows:

(1) The National Park Service shall administer those lands and waters described as follows: beginning at the intersection of State Highway 3 and State Road 402; thence easterly along State Road 402 and continuing easterly in a straight line to a point one-half mile offshore in the Atlantic Ocean, following the southern boundary of the seashore created in section 1; thence northwesterly along the boundary of the seashore created in section 1, which line is at each point one-half mile distance from the high water mark, to Bethune Beach; thence inland in a generally, westerly direction through Turner Flats and Shipyard Canal; thence northwesterly to the Intracoastal Waterway; thence southerly along the Intracoastal Waterway to the boundary of the Kennedy Space Center; then southwestwardly to United States Highway 1; thence southerly along State Highway 3 to the northern boundary of H. M. Gomez Grant; thence easterly along the northern boundary of H. M. Gomez Grant and continuing easterly in a straight line to a point of intersection with the line between the marsh and the dunes; thence southerly along the line between the marsh and the dunes to a point approximately one-half mile north of the southern boundary of the seashore created in section 1;

thence westerly in a straight line to connect with and to follow the Government Railroad to its intersection with State Highway 3; thence southerly along State Highway 3 to the point of beginning. The portion of land bounded by the northern boundary of the H. M. Gomez Grant is hereby transferred to the Secretary of the Interior and may be used for the purpose of establishing such facilities as are needed for the administration of the seashore, for the construction of the principal visitor center which shall be designated as the "Spessard L. Holland Visitor Center", and for a central access to the seashore: *Provided, however*, That the Secretary of the Interior, upon the request of the Administrator of the National Aeronautics and Space Administration, shall close this area or any part thereof to the public when necessary for space operations. In administering the shoreline and adjacent lands the Secretary shall retain such lands in their natural and primitive condition, shall prohibit vehicular traffic on the beach except for administrative purposes, and shall develop only those facilities which he deems essential for public health and safety.

(2) The United States Fish and Wildlife Service shall administer the remaining lands described in section 459j of this title.

(Pub. L. 93-626, § 5, Jan. 3, 1975, 88 Stat. 2123.)

REFERENCES IN TEXT

The National Wildlife Refuge System Administration Act, as amended, referred to in subsec. (b), consists of sections 4 and 5 of Pub. L. 89-669, Oct. 15, 1966, 80 Stat. 927, as amended, and is classified to sections 668dd, 668ee of this title. For further details, see Short Title note set out under section 668dd of this title.

CLOTHING-OPTIONAL AREAS PROHIBITED

Pub. L. 108-108, title I, §126, Nov. 10, 2003, 117 Stat. 1269, provided that: "None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-7, div. F, title I, §128, Feb. 20, 2003, 117 Stat. 242.

Pub. L. 107-63, title III, §313, Nov. 5, 2001, 115 Stat. 467.

Pub. L. 106-291, title III, §316, Oct. 11, 2000, 114 Stat. 989.

Pub. L. 106-113, div. B, §1000(a)(3) [title III, §317], Nov. 29, 1999, 113 Stat. 1535, 1501A-192.

Pub. L. 105-277, div. A, §101(e) [title III, §318], Oct. 21, 1998, 112 Stat. 2681-231, 2681-289.

Pub. L. 105-83, title III, §328, Nov. 14, 1997, 111 Stat. 1600.

**§ 459j-5. Canaveral National Seashore Advisory Commission**

**(a) Establishment; duties; termination; membership; term of members; appointment; Chairman**

There is hereby established the Canaveral National Seashore Advisory Commission which shall consult and advise with the Secretary on all matters of planning, development, and operation of the seashore and shall provide such other advice and assistance as may be useful in carrying out the purposes of sections 459j to

459j-8 of this title. The Commission shall terminate ten years after the date the seashore is established pursuant to sections 459j to 459j-8 of this title, unless extended by the Congress. The Commission shall be composed of six members who shall serve for terms of two years. Members shall be appointed by the Secretary, one of whom he shall designate as Chairman, in the following manner:

(1) one member from each county in which the seashore is located, to be selected from recommendations made by the county commission in each county;

(2) two members representing the State of Florida who shall be selected from recommendations made by the Governor of Florida; and

(3) two members representing the general public: *Provided*, That one member shall be appointed from each county in which the seashore is located.

**(b) Meetings; vacancies**

After the Secretary designates the member to be Chairman, the Commission may meet as often as necessary at the call of the Chairman or of the Secretary, or upon petition of a majority of the members of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

**(c) Compensation; payment of expenses upon vouchers**

Members of the Commission shall serve without compensation, as such, but the Secretary may pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section.

(Pub. L. 93-626, § 6, Jan. 3, 1975, 88 Stat. 2124; Pub. L. 94-398, Sept. 4, 1976, 90 Stat. 1204.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-398 substituted “six members” for “five members” in introductory provisions and substituted “two” for “one” and inserted requirement relating to residency of each member in cl. (3).

**§ 459j-6. Transfer of lands for use as administrative and visitor facilities to Secretary of the Interior; use of portion of John F. Kennedy Space Center; transfer of excess land within seashore to Secretary of the Interior**

On January 3, 1975, those lands to be used for the administrative and visitor facilities described in section 459j-4(c)(1) of this title shall be transferred by sections 459j to 459j-8 of this title to the Secretary of the Interior and those portions of the John F. Kennedy Space Center falling within the boundaries of the seashore as defined in section 459j of this title shall become a part of the seashore, and within ninety days thereafter, the Administrator, National Aeronautics and Space Administration, shall grant to the Secretary for carrying out the intent and purpose of sections 459j to 459j-8 of this title such use of said portions as the Administrator determines is not inconsistent with public safety and the needs of the space and defense programs of the Nation. Notwithstanding any other

provision of law, any lands within the seashore which the Administrator determines to be excess to the needs of such agency shall be transferred to the Secretary of the Interior for administration in accordance with the provisions of sections 459j to 459j-8 of this title: *Provided*, That any portions of the John F. Kennedy Space Center within the seashore not transferred to the Secretary shall remain under the control and jurisdiction of the Administrator.

(Pub. L. 93-626, § 7, Jan. 3, 1975, 88 Stat. 2125.)

**§ 459j-7. Report to President**

Within three years from January 3, 1975, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or unsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title.

(Pub. L. 93-626, § 8, Jan. 3, 1975, 88 Stat. 2125.)

**§ 459j-8. Authorization of appropriations; reports to Congressional committees**

**(a) Acquisition of lands and interests in lands**

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 459j to 459j-8 of this title, but not more than \$7,941,000 for the acquisition of lands and interests in lands. In order to avoid excessive costs resulting from delays in the acquisition program, the Secretary shall make every reasonable effort to promptly acquire the privately owned lands within the seashore. Until all such lands are acquired, he shall report, in writing on June 30 of each year to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, the following information:

(1) the amount of land acquired during the current fiscal year and the amount expended therefor;

(2) the amount of land remaining to be acquired; and

(3) the amount of land programmed for acquisition in the ensuing fiscal year and the estimated cost thereof.

**(b) Development of essential public facilities**

For the development of essential public facilities there are authorized to be appropriated \$2.6 million in addition to the sums previously appropriated.

(Pub. L. 93-626, § 9, Jan. 3, 1975, 88 Stat. 2125; Pub. L. 100-564, § 2, Oct. 31, 1988, 102 Stat. 2831; Pub. L. 103-437, § 6(m), Nov. 2, 1994, 108 Stat. 4586.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-437, § 6(m)(1), in introductory provisions substituted “Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives” for “Committees on Interior and Insular Affairs of the United States Congress”.

Subsec. (b). Pub. L. 103-437, § 6(m)(2), struck out at end “Within three years from January 3, 1975, the Sec-

retary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of sections 459j to 459j-8 of this title, indicating:

“(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

“(2) the location and estimated cost of all facilities; and

“(3) the projected need for any additional facilities within the seashore.”

1988—Subsec. (b). Pub. L. 100-564 substituted “\$2.6 million in addition to the sums previously appropriated” for “not more than \$500,000”.

#### SUBCHAPTER LXIV—RECREATIONAL DEMONSTRATION PROJECTS

#### § 459r. Disposition of recreational demonstration projects

Except as provided in section 459s of this title, the Secretary of the Interior is authorized, with the approval of the President, to convey or lease to the States or to the political subdivisions thereof, without consideration, any or all of the recreational demonstration projects and lands, improvements, and equipment comprised within such projects transferred to him by Executive Order Numbered 7496, dated November 14, 1936, or any parts of such projects, when in his judgment such grantees or lessees are adequately prepared to administer, operate, and maintain such project areas for public park, recreational, and conservation purposes, or he may, with the approval of the President, transfer to other Federal agencies any of the aforesaid recreational demonstration areas that may be of use to such agencies.

(June 6, 1942, ch. 380, § 1, 56 Stat. 326.)

#### DELEGATION OF FUNCTIONS

For delegation to Secretary of the Interior of authority vested in President by this section, see Ex. Ord. No. 10752, Feb. 12, 1958, 23 F.R. 973, set out as a note under section 715j of Title 15, Commerce and Trade.

#### SILVER CREEK PROJECT

Act July 30, 1947, ch. 351, 61 Stat. 519, provided: “That, in order to carry out the purposes of the act of June 6, 1942 [56 Stat. 326; sections 459r to 459t of this title], relating to the disposition of recreational demonstration areas, and to effectuate the transfer to the State of Oregon, pursuant to that act, of the Silver Creek recreational demonstration project, the following-described revested Oregon and California Railroad grant lands shall hereafter be administered as a part of the Silver Creek recreational demonstration project and shall be subject to all of the provisions of the aforesaid Act of June 6, 1942:

#### “WILLAMETTE MERIDIAN

“Township 8 south, range 1 east:

“Section 13, east half southeast quarter and southeast quarter northeast quarter;

“Section 25, all;

“Section 35, north half northeast quarter northeast quarter and north half south half northeast quarter northeast quarter;

“Township 8 south, range 2 east:

“Section 17, south half southwest quarter and northwest quarter southwest quarter;

“Section 19, lots 3, 4, and northeast quarter;

“Section 29, west half; and

“Section 31, north half;

comprising one thousand seven hundred and ninety-one and ninety-three one-hundredths acres.

“SEC. 2. The following-described lands also shall become a part of the Silver Creek recreational demonstration project and shall be subject to the provisions of the act of June 6, 1942, upon acquisition of title thereto by the Oregon and California Revested Lands Administration:

#### “WILLAMETTE MERIDIAN

“Township 8 south, range 1 east: Section 36, northeast quarter, northeast quarter northwest quarter, north half southeast quarter northwest quarter, north half south half southeast quarter northwest quarter, north half northwest quarter northwest quarter, and north half south half northwest quarter northwest quarter; comprising two hundred and sixty acres.”

#### EX. ORD. NO. 7496. TRANSFER OF RECREATIONAL DEMONSTRATION PROJECTS

Ex. Ord. No. 7496, Nov. 14, 1936, 1 F.R. 1946, provided:

By virtue of and pursuant to the authority vested in me by Title II of the National Industrial Recovery Act (48 Stat. 200) (title 15, sections 701 to 712), the Emergency Relief Appropriation Act of 1935 (49 Stat. 115), and the Emergency Relief Appropriation Act of 1936 (Public, No. 739, 74th Congress), (title 15, ch. 16 note) I hereby order as follows:

1. There is transferred from the Resettlement Administration to the Secretary of the Interior (a) all the real and personal property or any interest therein, together with all contracts, options, rights and interests, books, papers, memoranda, records, etc., acquired by the Resettlement Administration in connection with the recreational demonstration projects set forth in the attached schedule with funds appropriated or made available to carry out the provisions of the National Industrial Recovery Act by the Fourth Deficiency Act, fiscal year 1933 (48 Stat. 274, 275), and by the Emergency Appropriation Act, fiscal year 1935 (48 Stat. 1055), and with funds appropriated by the Emergency Relief Appropriation Act of 1935 (49 Stat. 115), and by the Emergency Relief Appropriation Act of 1936 (Public No. 739, 74th Congress), (title 15, ch. 16 note) and (b) all personnel, whether in the District of Columbia or elsewhere, now employed in connection with the acquisition of land for those recreational demonstration projects, together with all administration personnel records pertaining to the employees transferred, and to those employees engaged in development activities as of July 31, 1936, who were released by the Resettlement Administration on that date to permit the Department of the Interior to enter them on its rolls as of August 1.

2. There is transferred and allocated to the Secretary of the Interior all balances of appropriations heretofore made available to or allotted for expenditure by the Resettlement Administration both for acquiring land for the recreational demonstration projects set forth in the attached schedule and for developing those projects, under the said National Industrial Recovery Act, Fourth Deficiency Act, fiscal year 1933, Emergency Appropriation Act, fiscal year 1935, Emergency Relief Appropriation Act of 1935, and Emergency Relief Appropriation Act of 1936, to be used for the purposes for which such funds were made available or allotted to the Resettlement Administration. The Secretary of the Interior shall assume all outstanding obligations, commitments, and encumbrances heretofore incurred by the Resettlement Administration in connection with the said projects.

3. The Secretary of the Interior is authorized, through the National Park Service, to complete and administer the projects transferred to him by this Executive Order and to exercise with respect to any real or personal property or any interest therein, contracts, options, rights and interests, books, papers, memoranda, and records acquired in connection with such projects, all the powers and functions given to the Resettlement Administration in connection therewith by