

REFERENCES IN TEXT

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

AMENDMENTS

1978—Pub. L. 95-352 designated existing provisions as subsec. (a) and added subsec. (b).

SUBCHAPTER LXXXIV—OREGON DUNES
NATIONAL RECREATION AREA**§ 460z. Establishment**

In order to provide for the public outdoor recreation use and enjoyment of certain ocean shorelines and dunes, forested areas, fresh water lakes, and recreational facilities in the State of Oregon by present and future generations and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Oregon Dunes National Recreation Area (hereinafter referred to as the “recreation area”).

(Pub. L. 92-260, §1, Mar. 23, 1972, 86 Stat. 99.)

§ 460z-1. Administration, protection, and development

The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture (hereinafter called the “Secretary”) in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute the attainment of the purposes set forth in section 460z of this title.

(Pub. L. 92-260, §2, Mar. 23, 1972, 86 Stat. 99.)

§ 460z-2. Inland sector; establishment as buffer sector

The portion of the recreation area delineated as the “Inland Sector” on the map referenced in section 460z-3 of this title is hereby established as an inland buffer sector in order to promote such management and use of the lands, waters, and other properties within such sector as will best protect the values which contribute to the purposes set forth in section 460z of this title.

(Pub. L. 92-260, §3, Mar. 23, 1972, 86 Stat. 99.)

§ 460z-3. Boundary map; revision

The boundaries of the recreation area, as well as the boundaries of the inland sector included therein, shall be as shown on a map entitled “Proposed Oregon Dunes National Recreation Area” dated May 1971, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, and to which is attached and hereby made a part thereof a detailed description by metes and bounds of the exterior boundaries of the recreation area and of the inland sector. The Secretary may by publication of a revised map or description in the Federal Register correct clerical or typographical errors in said map or descriptions.

(Pub. L. 92-260, §4, Mar. 23, 1972, 86 Stat. 99.)

SIUSLAW NATIONAL FOREST

The boundaries of the Siuslaw National Forest were extended by section 6 of Pub. L. 92-260 to include all lands described in accordance with this section. See note set out under sections 486a to 486w of this title.

§ 460z-4. Transfer of Federal property

Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this subchapter, but lands presently administered by the United States Coast Guard or the United States Corps of Engineers may continue to be used by such agencies to the extent required.

(Pub. L. 92-260, §5, Mar. 23, 1972, 86 Stat. 99.)

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.

§ 460z-5. Land acquisition in inland sector

Within the inland sector established by section 460z-2 of this title the Secretary may acquire the following classes of property only with the consent of the owner:

(a) improved property as hereinafter defined;

(b) property used for commercial or industrial purposes if such commercial or industrial purposes are the same such purposes for which the property was being used on December 31, 1970, or such commercial or industrial purposes have been certified by the Secretary or his designee as compatible with or furthering the purposes of this subchapter;

(c) timberlands under sustained yield management so long as the Secretary determines that such management is being conducted in accordance with standards for timber production, including but not limited to harvesting reforestation, and debris cleanup, not less stringent than management standards imposed by the Secretary on comparable national forest lands: *Provided*, That the Secretary may acquire such lands or interests therein without the consent of the owner if he determines that such lands or interests are essential for recreation use or for access to or protection of recreation developments within the purposes of this subchapter. In any acquisition of such lands or interests the Secretary shall, to the extent practicable, minimize the impact of such acquisition on access to or the reasonable economic use for sustained yield forestry of adjoining lands not acquired; and

(d) property used on December 31, 1970, primarily for private, noncommercial recreational purposes if any improvements made to such property after said date are certified by the Secretary of Agriculture or his des-

ignee as compatible with the purposes of this subchapter.

(Pub. L. 92-260, §7, Mar. 23, 1972, 86 Stat. 100.)

§ 460z-6. Land acquisition in recreation area; donation and exchange; railway right-of-way; retention rights of owners of improved property

(a) Land acquisition

Within the boundaries of the recreation area lands, waters, and interests therein owned by or under the control of the State of Oregon or any political subdivision thereof may be acquired only by donation or exchange.

(b) Railway right-of-way

No part of the Southern Pacific Railway right-of-way within the boundaries of the recreation area may be acquired without the consent of the railway, so long as it is used for railway purposes: *Provided*, That the Secretary may condemn such easements across said right-of-way as he deems necessary for ingress and egress.

(c) Retention rights of owners of improved property

Any person owning an improved property, as hereafter defined, within the recreation area may reserve for himself and his assigns, as a condition of the acquisition of such property, a right of use and occupancy of the residence and not in excess of three acres of land on which such residence is situated. Such reservation shall be for a term ending at the death of the owner, or the death of his spouse, whichever occurs later, 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 lands or waters which he deems necessary for public use, access, or development. The owner shall elect, at the time of conveyance, the term of the right to be reserved. Where any such owner retains a right of use and occupancy as herein provided, such right may during its existence be conveyed or leased in whole, but not in part, for noncommercial residential purposes. 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. At any time subsequent to the acquisition of such property the Secretary may, with the consent of the owner of the retained right of use and occupancy, acquire such right, in which event he shall pay to such owner the fair market value of the remaining portion of such right.

(d) "Improved property" defined

The term "improved property" wherever used in this subchapter shall mean a detached one-family dwelling the construction of which was begun before December 31, 1970, together with any structures accessory to it and the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary finds necessary for the enjoyment of the dwelling for the sole purpose of non-commercial residential use.

(Pub. L. 92-260, §8, Mar. 23, 1972, 86 Stat. 100.)

§ 460z-7. Hunting, fishing, and trapping

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the State of Oregon, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

(Pub. L. 92-260, §9, Mar. 23, 1972, 86 Stat. 101.)

§ 460z-8. Mining restriction

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

(Pub. L. 92-260, §10, Mar. 23, 1972, 86 Stat. 101.)

§ 460z-9. Water utilization; transportation of wastes; easements

(a) Water utilization

The Secretary is authorized and directed, subject to applicable water quality standards now or hereafter established, to permit, subject to reasonable rules and regulations, the investigation for, appropriation, storage, and withdrawal of ground water, surface water, and lake, stream, and river water from the recreation area and the conveyance thereof outside the boundaries of the recreation area for beneficial use in accordance with applicable laws of the United States and of the State of Oregon if permission therefor has been obtained from the State of Oregon before March 23, 1972: *Provided*, That nothing herein shall prohibit or authorize the prohibition of the use of water from Tahkenitch or Siltcoo Lakes in accordance with permission granted by the State of Oregon prior to March 23, 1972, in connection with certain industrial plants developed or being developed at or near Gardiner, Oregon.

(b) Transportation and storage of wastes

The Secretary is authorized and directed, subject to applicable water quality standards now or hereafter established, to permit, subject to reasonable rules and regulations, transportation and storage in pipelines within and through the recreation area of domestic and industrial wastes in accordance with applicable laws of the United States and of the State of Oregon if permission therefor has been obtained from the State of Oregon before March 23, 1972.

(c) Easements and rights for the disposal of wastes

The Secretary is further authorized, subject to applicable water quality standards now or hereafter established, to grant such additional easements and rights, in terms up to perpetuity, as in his judgment would be appropriate and desir-

able for the effective use of the rights to water and the disposal of waste provided for herein and for other utility and private purposes if permission therefor has been obtained from the State of Oregon, subject to such reasonable terms and conditions as he deems necessary for the protection of the scenic, scientific, historic, and recreational features of the recreation area.

(Pub. L. 92-260, § 11, Mar. 23, 1972, 86 Stat. 101.)

§ 460z-10. Advisory Council

(a) Establishment; membership

The Secretary shall establish an advisory council for the Oregon Dunes National Recreation Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management and development of the recreation area. The members of the advisory council, who shall not exceed fifteen in number, shall serve for individual staggered terms of three years each and shall be appointed by the Secretary as follows:

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

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

(iii) not to exceed eleven members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the recreation area; and

(iv) the Secretary shall designate one member to be Chairman and shall fill vacancies in the same manner as the original appointment.

(b) Private viewpoints

The Secretary shall, in addition to his consultation with the advisory council, seek the views of other private groups and individuals with respect to administration of the recreation area.

(c) Payment of expenses

The members shall not receive any compensation for their services as members of the council, as such, but the Secretary is authorized to pay expenses reasonably incurred by the council in carrying out its responsibilities.

(Pub. L. 92-260, § 12, Mar. 23, 1972, 86 Stat. 102.)

TERMINATION OF ADVISORY COUNCILS

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

§ 460z-11. Area review; report to the President; wilderness designation

Within three years from March 23, 1972, the Secretary shall review the area within the

boundaries of the recreation area and shall report to the President, in accordance with section 1132(b) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the recreation area for preservation as a wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with section 1132(b) and (d) of this title.

(Pub. L. 92-260, § 13, Mar. 23, 1972, 86 Stat. 102.)

CODIFICATION

Section 1132(b) and (d) of this title, the first time appearing in text, was in the original "subsections 3(b) and 3(d) of the Wilderness Act" and, the second time appearing in text, was in the original "said subsection of the Wilderness Act".

§ 460z-12. Federal-State cooperation

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

(Pub. L. 92-260, § 14, Mar. 23, 1972, 86 Stat. 102.)

§ 460z-13. Authorization of appropriations

There are hereby authorized to be appropriated for the acquisition of lands, waters, and interests therein such sums as are necessary, not to exceed \$5,750,000. For development of the recreation area, not more than \$12,700,000 is authorized to be appropriated.

(Pub. L. 92-260, § 15, Mar. 23, 1972, 86 Stat. 102; Pub. L. 94-578, title III, § 316, Oct. 21, 1976, 90 Stat. 2737.)

AMENDMENTS

1976—Pub. L. 94-578 substituted "There are hereby authorized to be appropriated for the acquisition of lands, waters, and interests therein such sums as are necessary, not to exceed \$5,750,000" for "Money appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein within the recreation area, but not more than \$2,500,000 is authorized to be appropriated for such purposes".

SUBCHAPTER LXXXV—SAWTOOTH NATIONAL RECREATION AREA

§ 460aa. Establishment

(a) In general

In order to assure the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, the Sawtooth National Recreation Area is hereby established.

(b) Boundaries; publication in Federal Register

The Sawtooth National Recreation Area (hereafter referred to as the "recreation area"), in-