

Subsec. (a)(92), (93). Pub. L. 99-590, §§201(b), 301(a), added pars. (92) and (93).

Subsec. (a)(94), (95). Pub. L. 99-663 added at end two unnumbered pars., relating to Klickitat, Washington, and White Salmon, Washington, which were designated as pars. (94) and (95), respectively, by Pub. L. 100-149.

Subsec. (b)(1). Pub. L. 99-590, §503(b), inserted provisions relating to completion and transmission of reports to Congress not later than Jan. 1, 1987.

Subsec. (b)(3). Pub. L. 99-590, §301(b), inserted provisions relating to completion date of study of river named in subsec. (a)(93).

Subsec. (b)(4). Pub. L. 99-590, §503(c), amended par. (4) generally, substituting provisions authorizing appropriations for purposes of conducting studies of rivers named in subsec. (a), for provisions authorizing appropriations for the purpose of conducting studies of rivers named in pars. (28) through (56), (59) through (76), (90), and (93) of subsec. (a).

Pub. L. 99-590, §301(c), inserted provisions authorizing an appropriation of not to exceed \$150,000 for conducting study of river named in subsec. (a)(93).

Subsec. (b)(7). Pub. L. 99-590, §202(c), added par. (7).

1984—Subsec. (a)(89). Pub. L. 98-323 added par. (89).

Subsec. (a)(90). Pub. L. 98-494 added par. (90) appearing second relating to North Umpqua, Oregon.

Pub. L. 98-484, §5(a), added par. (90) appearing first relating to Horsepasture, North Carolina.

Subsec. (b)(3). Pub. L. 98-484, §5(b), required completion of the study of the Horsepasture River, North Carolina, within three years after Oct. 17, 1984.

Subsec. (b)(4). Pub. L. 98-484, §5(c), authorized appropriations for conducting study of the Horsepasture River, North Carolina.

Subsec. (b)(5), (6). Pub. L. 98-484, §5(c), redesignated pars. (4) and (5) added by Pub. L. 96-487, §604(b), as pars. (5) and (6), respectively.

1980—Subsec. (a)(76). Pub. L. 96-199, §102(a), added par. (76).

Subsec. (a)(77) to (88). Pub. L. 96-487, §604(a), added pars. (77) to (88).

Subsec. (b)(3), (4). Pub. L. 96-199, §102(b), substituted “(76)” for “(75)”.

Subsec. (b)(4), (5). Pub. L. 96-487, §604(b), added second par. (4) and par. (5). See 1984 Amendment note above.

1979—Subsec. (b)(3). Pub. L. 96-87, §404(a), substituted “paragraphs (59) through (75)” for “paragraphs (59) through (72)”.

Subsec. (b)(4). Pub. L. 96-87, §404(b), substituted “subparagraphs (59) through (75)” for “subparagraphs (59) through (74)”.

1978—Subsec. (a)(59) to (75). Pub. L. 95-625, §§721-734, 1108, added pars. (59) to (75).

Subsec. (b)(3), (4). Pub. L. 95-625, §§735, 736, added par. (3), redesignated former par. (3) as (4), and increased appropriations authorization for certain studies to \$4,060,000 from \$2,175,000 and authorized necessary appropriations for certain other river studies.

1976—Subsec. (a)(47). Pub. L. 94-486, §701, struck out “including the tributaries and headwaters on national forest lands” after “Colorado Highway 160”.

Subsec. (a)(58). Pub. L. 94-486, §401, added par. (58).

1975—Subsec. (a)(28) to (56). Pub. L. 93-621, §1(a), added pars. (28) to (56).

Subsec. (a)(57). Pub. L. 94-199 added par. (57).

Subsecs. (b) to (d). Pub. L. 93-621, §1(b), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1974—Subsecs. (b) to (d). Pub. L. 93-279 redesignated subsecs. (c) and (d) as (b) and (c), respectively. Former subsec. (b), relating to the study of rivers named in subsec. (a) of this section for inclusion in the national wild and scenic river system and submission of reports to the President and the Congress, was incorporated in section 1275(a) of this title.

#### CHANGE OF NAME

The Delaware and Lehigh Navigation Canal National Heritage Corridor was redesignated the Delaware and Lehigh National Heritage Corridor by Pub. L. 105-355, title IV, §401, Nov. 6, 1998, 112 Stat. 3258.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-484, §6, Oct. 17, 1984, 98 Stat. 2260, provided that: “The provisions of this Act [amending this section] shall take effect on the date of the enactment of this Act [Oct. 17, 1984].”

#### GENESEE RIVER PROTECTION

Pub. L. 101-175, Nov. 27, 1989, 103 Stat. 1294, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Genesee River Protection Act of 1989’.

“SEC. 2. PROTECTION OF THE GENESEE RIVER.

“In order to protect for present and future generations the outstanding scenic, natural, recreational, scientific, cultural, and ecological values of the Genesee River within Letchworth Gorge State Park in the State of New York, and to assist in the protection and enhancement of the Gorge’s archeological sites of sacred significance to the Seneca Nation, historic areas, endangered plant communities, and diverse recreation uses, the protections afforded for rivers listed in section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) for study for potential addition to the National Wild and Scenic Rivers System shall apply to the segment of the Genesee River beginning at the southern boundary of Letchworth Gorge State Park and extending downstream to the Mt. Morris Dam, except that the protection so afforded shall not interfere with the Secretary of the Army’s operation and management of Mt. Morris Dam as authorized for purposes of flood control.”

#### § 1277. Land acquisition

##### (a) Grant of authority to acquire; State and Indian lands; use of appropriated funds; acquisition of tracts partially outside component boundaries; disposition of lands

(1) The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 1274 of this title, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by donation or by exchange in accordance with subsection (d) of this section. Lands owned by an Indian tribe or a political subdivision of a State may not be acquired without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this chapter. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this chapter.

(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside

the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a)(1) of this section. The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.

**(b) Curtailment of condemnation power in area 50 per centum or more of which is owned in fee title by Federal or State government**

If 50 per centum or more of the entire acreage outside the ordinary high water mark on both sides of the river within a federally administered wild, scenic or recreational river area is owned in fee title by the United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this chapter. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

**(c) Curtailment of condemnation power in urban areas covered by valid and satisfactory zoning ordinances**

Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village, or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this chapter. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this chapter. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which are consistent with the purposes of this chapter, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

**(d) Exchange of property**

The appropriate Secretary is authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 1274 of this title or hereafter designated for inclusion in the system by Act of Congress and, in exchange therefor, convey to the grantor any federally owned property which is under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

**(e) Transfer of jurisdiction over federally owned property to appropriate Secretary**

The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 1274 of this title or hereafter designated for inclusion in the system by Act of Congress is authorized to transfer to the appropriate secretary jurisdiction over such lands for administration in accordance with the provisions of this chapter. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this chapter within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

**(f) Acceptance of donated land, funds, and other property**

The appropriate Secretary is authorized to accept donations of lands and interests in land, funds, and other property for use in connection with his administration of the national wild and scenic rivers system.

**(g) Retained right of use and occupancy; termination; fair market value; "improved property" defined**

(1) Any owner or owners (hereinafter in this subsection referred to as "owner") of improved property on the date of its acquisition, may retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial 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, or the death of either or both of them. The owner shall elect the term to be reserved. The appropriate 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.

(2) A right of use and occupancy retained pursuant to this subsection shall be subject to termination whenever the appropriate Secretary is given reasonable cause to find that such use and occupancy is being exercised in a manner which conflicts with the purposes of this chapter. In the event of such a finding, the Secretary shall tender to the holder of that right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination. Such right of use or occupancy shall terminate by operation of law upon tender of the fair market price.

(3) The term "improved property", as used in this chapter, means a detached, one-family dwelling (hereinafter referred to as "dwelling"), the construction of which was begun before January 1, 1967, (except where a different date is specifically provided by law with respect to any particular river) 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 appropriate Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any struc-

tures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 90-542, §6, Oct. 2, 1968, 82 Stat. 912; Pub. L. 95-625, title VII, §763(b), Nov. 10, 1978, 92 Stat. 3533; Pub. L. 99-590, title V, §504, Oct. 30, 1986, 100 Stat. 3336.)

#### AMENDMENTS

1986—Subsec. (a). Pub. L. 99-590, §504(b), (c), designated existing provisions as par. (1), inserted provisions relating to acquisition of lands by exchange in accordance with subsec. (d) of this section, and added par. (2).

Subsec. (b). Pub. L. 99-590, §504(d), inserted requirement that acreage be outside ordinary high water mark on both sides of the river, and inserted “in fee title” after “owned”.

Subsec. (e). Pub. L. 99-590, §504(a), substituted “Congress is” for “Congress in”.

1978—Subsec. (g)(3). Pub. L. 95-625 inserted “(except where a different date is specifically provided by law with respect to any particular river)”.

### § 1278. Restrictions on water resources projects

#### (a) Construction projects licensed by Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 1274 of this title as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of designation of a river as a component of the National Wild and Scenic Rivers System. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this chapter and would affect the component and the values to be protected by it under this chapter. Any license heretofore or hereafter issued by the Federal Energy Regu-

latory Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the National Wild and Scenic Rivers System pursuant to section 1273 of this title and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

#### (b) Construction projects on rivers designated for potential addition to system

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended [16 U.S.C. 791a et seq.], on or directly affecting any river which is listed in section 1276(a) of this title, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the ten-year period following October 2, 1968, or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register: *Provided*, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and

(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and

(iii) during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system under section 1273(a)(ii) of this title, is necessary for the Secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a poten-