

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,<sup>1</sup> 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.

<sup>1</sup> So in original. Probably should be “Colington.”

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

The administration, protection, and development of the aforesaid national seashore recreational area shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), entitled “An Act to establish a National Park Service, and for other purposes”,<sup>1</sup> 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 Act of August 25, 1916 (39 Stat. 535), entitled “An Act to establish a National Park Service, and for other purposes”, referred to in text, is act Aug. 25, 1916, ch. 408, 39 Stat. 535, known as the National Park Service Organic Act, which enacted sections 1, 2, 3, and 4 of this title and provisions set out as a note under section 100101 of Title 54, National Park Service and Related Programs. Sections 1 to 4 of the Act were repealed and restated as section 1865(a) of Title 18, Crimes and Criminal Procedure, and section 100101(a), chapter 1003, and sections 100751(a), 100752, 100753, and 102101 of Title 54 by Pub. L. 113-287, §§3, 4(a)(1), 7, Dec. 19, 2014, 128 Stat. 3094, 3260, 3272. For complete classification of this Act to the Code, see Tables. For disposition of former sections of this title, see Disposition Table preceding section 100101 of Title 54.

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

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

(§ 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.

#### CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA

Pub. L. 113-291, div. B, title XXX, § 3057, Dec. 19, 2014, 128 Stat. 3813, provided that:

“(a) DEFINITIONS.—In this section:

“(1) FINAL RULE.—The term ‘Final Rule’ means the final rule entitled ‘Special Regulations, Areas of the National Park System, Cape Hatteras National Seashore—Off-Road Vehicle Management’ (77 Fed. Reg. 3123 (January 23, 2012)).

“(2) NATIONAL SEASHORE.—The term ‘National Seashore’ means the Cape Hatteras National Seashore Recreational Area.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

“(4) STATE.—The term ‘State’ means the State of North Carolina.

“(b) REVIEW AND ADJUSTMENT OF WILDLIFE PROTECTION BUFFERS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 19, 2014], the Secretary shall review and modify wildlife buffers in the National Seashore in accordance with this subsection and any other applicable law.

“(2) BUFFER MODIFICATIONS.—In modifying wildlife buffers under paragraph (1), the Secretary shall, using adaptive management practices—

“(A) ensure that the buffers are of the shortest duration and cover the smallest area necessary to protect a species, as determined in accordance with peer-reviewed scientific data; and

“(B) designate pedestrian and vehicle corridors around areas of the National Seashore closed because of wildlife buffers, to allow access to areas that are open.

“(3) COORDINATION WITH STATE.—The Secretary, after coordinating with the State, shall determine appropriate buffer protections for species that are not listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), but that are identified for protection under State law.

“(c) MODIFICATIONS TO FINAL RULE.—The Secretary shall undertake a public process to consider, consistent with management requirements at the National Seashore, the following changes to the Final Rule:

“(1) Opening beaches at the National Seashore that are closed to night driving restrictions, by opening beach segments each morning on a rolling basis as daily management reviews are completed.

“(2) Extending seasonal off-road vehicle routes for additional periods in the Fall and Spring if off-road vehicle use would not create resource management problems at the National Seashore.

“(3) Modifying the size and location of vehicle-free areas.

“(d) CONSTRUCTION OF NEW VEHICLE ACCESS POINTS.—The Secretary shall construct new vehicle access points and roads at the National Seashore—

“(1) as expeditiously as practicable; and

“(2) in accordance with applicable management plans for the National Seashore.

“(e) REPORT.—The Secretary shall report to Congress within 1 year after the date of enactment of this Act [Dec. 19, 2014] on measures taken to implement this section.”

#### § 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.