

suant to Pub. L. 95-91, §402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 460m-12. Administration, protection, and development

The Secretary shall administer, protect, and develop the Buffalo National River in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.),¹ 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 this subchapter.

(Pub. L. 92-237, § 5, Mar. 1, 1972, 86 Stat. 45.)

REFERENCES IN TEXT

The Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), 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 Sections 1 to 4 of the Act were repealed and restated as section 1865(a) of Title 18, Crimes and Criminal Procedure, and section 100101(a), chapter 1003, and sections 100751(a), 100752, 100753, and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.

§ 460m-13. Suitability for preservation as a wilderness; area review and report to President

Within three years from March 1, 1972, the Secretary shall review the area within the boundaries of the national river and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the national river for preservation as a 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. 92-237, § 6, Mar. 1, 1972, 86 Stat. 46.)

§ 460m-14. Authorization of appropriations

For the acquisition of lands and interests in lands, there are authorized to be appropriated not more than \$39,948,000. For development of the national river, there are authorized to be appropriated not to exceed \$9,371,000.

(Pub. L. 92-237, § 7, Mar. 1, 1972, 86 Stat. 46; Pub. L. 94-578, title I, §101(3), title III, § 310, Oct. 21, 1976, 90 Stat. 2732, 2736; Pub. L. 95-625, title II, §201(2), Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95-625 increased land acquisition appropriations authorization to \$39,948,000 from \$30,071,500.

¹ See References in Text note below.

1976—Pub. L. 94-578 substituted “\$30,071,500” for “\$16,115,000” in provision covering the acquisition of lands and interests in lands and substituted “For development of the national river, there are authorized to be appropriated not to exceed \$9,371,000” for “For development of the national river, there are authorized to be appropriated not more than \$283,000 in fiscal year 1974; \$2,923,000 in fiscal year 1975; \$3,643,000 in fiscal year 1976; \$1,262,000 in fiscal year 1977; and \$1,260,000 in fiscal year 1978. The sums appropriated each year shall remain available until expended”.

SUBCHAPTER LXXI-A—NEW RIVER GORGE NATIONAL RIVER

§ 460m-15. Establishment; administration, protection, and development; utilization of other authorities; boundary description, availability for public inspection

For the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the “Secretary”) shall establish and administer the New River Gorge National River. The Secretary shall administer, protect, and develop the national river in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.),¹ as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter. The boundaries of the national river shall be as generally depicted on the drawing entitled “Proposed New River Gorge National River” numbered NERI 80,034, dated May 2001, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(Pub. L. 95-625, title XI, §1101, Nov. 10, 1978, 92 Stat. 3544; Pub. L. 100-534, title I, §101, Oct. 26, 1988, 102 Stat. 2700; Pub. L. 104-333, div. I, title IV, §406(a)(1), Nov. 12, 1996, 110 Stat. 4149; Pub. L. 107-356, §2(a), Dec. 17, 2002, 116 Stat. 3013.)

REFERENCES IN TEXT

The Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), 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.

AMENDMENTS

2002—Pub. L. 107-356 substituted “NERI 80,034, dated May 2001” for “NERI-80,028A, dated March 1996”.

¹ See References in Text note below.

1996—Pub. L. 104-333 substituted “NERI-80,028A, dated March 1996” for “NERI-80,023, dated January 1987”.

1988—Pub. L. 100-534 substituted “NERI-80,023, dated January 1987” for “NERI-20,002, dated July 1978”.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-356, §1, Dec. 17, 2002, 116 Stat. 3013, provided that: “This Act [amending this section and enacting provisions set out as a note under this section] may be cited as the ‘New River Gorge Boundary Act of 2002’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-534, §1, Oct. 26, 1988, 102 Stat. 2699, provided that: “This Act [enacting sections 460m-26 to 460m-29 and 460ww to 460ww-5 of this title, amending this section and section 1274 of this title, and enacting provisions set out as notes under this section and section 1274 of this title] may be cited as the ‘West Virginia National Interest River Conservation Act of 1987’.”

LAND EXCHANGE

Pub. L. 107-356, §2(b), Dec. 17, 2002, 116 Stat. 3013, provided that:

“(1) IN GENERAL.—The Secretary of the Interior shall complete a fee simple land exchange in the vicinity of Beauty Mountain, Fayette County, West Virginia, to acquire a tract of land identified as NERI Tract Number 150-07 that lies adjacent to the boundary of the New River Gorge National River in exchange for a tract of land identified as NERI Tract Number 150-08 located within such boundary.

“(2) TREATMENT OF EXCHANGED LANDS.—Upon the completion of such land exchange—

“(A) the land acquired by the United States in the exchange shall be included in the boundaries, and administered as part, of the New River Gorge National River; and

“(B) the land conveyed by the United States in the exchange shall be excluded from the boundaries, and shall not be administered as part, of the New River Gorge National River.”

NEW, GAULEY, MEADOW, AND BLUESTONE RIVERS; CONGRESSIONAL FINDINGS AND PURPOSE

Pub. L. 100-534, §2, Oct. 26, 1988, 102 Stat. 2699, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the National Park System.

“(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

“(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river’s visual corridor and to provide for better management of the national park unit.

“(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation resource. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

“(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable

for inclusion in the National Park System or the National Wild and Scenic Rivers System.

“(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

“(b) PURPOSE.—The purpose of this Act [see Short Title of 1988 Amendment note above] is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.”

COORDINATION AMONG RECREATIONAL RESOURCES

Pub. L. 100-534, title IV, §401, Oct. 26, 1988, 102 Stat. 2707, provided that: “Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.”

SPECIAL PROVISIONS

Pub. L. 100-534, title IV, §402, Oct. 26, 1988, 102 Stat. 2707, provided that: “Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State’s regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act [see Short Title of 1988 Amendment note above].”

CONSOLIDATED MANAGEMENT

Pub. L. 100-534, title IV, §404, Oct. 26, 1988, 102 Stat. 2708, provided that: “In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act [see Short Title of 1988 Amendment note above], the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.”

NEW SPENDING AUTHORITY

Pub. L. 100-534, title IV, §405, Oct. 26, 1988, 102 Stat. 2708, provided that: “Any new spending authority which is provided under this Act [see Short Title of 1988 Amendment note above] shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.”

§ 460m-16. Acquisition of property

(a) Authority of Secretary; manner; donation of State lands; improved and unimproved properties

Within the boundaries of the New River Gorge National River, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. In addition, the Secretary may acquire by any of the fore-

going methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this subchapter. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

(b) Non-federally owned lands; cooperative agreements affecting properties of historical significance

On non-federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

(c) "Improved property" defined

For the purposes of this Act, the term "improved property" means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (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, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(d) Owner's reservation of right of use and occupancy for fixed term of years or for life; election by owner; fair market value; termination; notification

The owner of an improved property, as defined in this subchapter, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for non-commercial residential, or agricultural pur-

poses, or the continuation of existing commercial operations, as the case may be, 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 spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this subchapter, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(Pub. L. 95-625, title XI, § 1102, Nov. 10, 1978, 92 Stat. 3545; Pub. L. 99-500, § 101(h) [title I, § 116(a)], Oct. 18, 1986, 100 Stat. 1783-242, 1783-266, and Pub. L. 99-591, § 101(h) [title I, § 116(a)], Oct. 30, 1986, 100 Stat. 3341-242, 3341-266; Pub. L. 99-590, title X, § 1001, Oct. 30, 1986, 100 Stat. 3339.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 95-625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-500, Pub. L. 99-590, Pub. L. 99-591, amended subsec. (a) identically inserting provisions relating to acquisition of an administrative headquarters site.

§ 460m-17. Lands and areas plan; submission to Congressional committees

Within two years from November 10, 1978, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this national river;

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing four fiscal years; and

(iv) the feasibility and suitability of including within the boundaries of the national river, the section of the New River from Fayetteville to Gauley Bridge, and reasons therefor.

(Pub. L. 95-625, title XI, § 1103, Nov. 10, 1978, 92 Stat. 3546.)

CHANGE OF NAME

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.

§ 460m-18. Zoning laws and ordinances; establishment; assistance; restrictions; variances

The Secretary shall on his own initiative, or at the request of any local government having jurisdiction over land located in or adjacent to the Gorge area, assist and consult with the appropriate officials and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of this subchapter. In providing assistance pursuant to this section, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of restricting incompatible commercial and industrial use of all real property in or adjacent to the Gorge area;

(2) aid in preserving the character of the Gorge area by appropriate restrictions on the use of real property in the vicinity, including, but not limited to, restrictions upon building and construction of all types; signs and billboards; the burning of cover; cutting of timber; removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the esthetic character of the Gorge area; and

(3) have the effect of providing that the Secretary shall receive advance notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

(Pub. L. 95-625, title XI, §1104, Nov. 10, 1978, 92 Stat. 3546.)

§ 460m-19. Mineral lands

(a) Mining; prohibition and limitation

Notwithstanding any other provision of law, no surface mining of any kind shall be permitted on federally owned lands within the boundary of the national river where the subsurface estate is not federally owned. Underground mining on such lands may be permitted by the Secretary only if—

(1) the mining operation will have no significant adverse impact on the public use and enjoyment of the national river;

(2) the mining operation will disturb the minimum amount of surface necessary to extract the mineral; and

(3) the surface is not significantly disturbed, unless there is no technologically feasible alternative.

(b) Timber harvesting

The harvesting of timber on federally owned lands within the national river boundary is prohibited, except insofar as it is necessary for the Secretary to remove trees for river access, historic sites, primitive campgrounds, scenic vistas, or as may be necessary from time to time for reasons of public health and safety.

(c) Civil action; jurisdiction; recovery

The owner of a mineral estate subject to this section who believes he has suffered a loss by op-

eration of this section, may bring an action only in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(Pub. L. 95-625, title XI, §1105, Nov. 10, 1978, 92 Stat. 3546.)

§ 460m-20. Hunting and fishing zones; designation; rules and regulations, consultation

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the New River Gorge National River in accordance with applicable Federal and State laws, and he 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 appropriate State agency responsible for hunting and fishing activities. The Secretary shall permit the State of West Virginia to undertake fish stocking activities carried out by the State, in consultation with the Secretary, on waters within the boundaries of the national river. Nothing in this Act shall be construed as affecting the jurisdiction of the State of West Virginia with respect to fish and wildlife.

(Pub. L. 95-625, title XI, §1106, Nov. 10, 1978, 92 Stat. 3547; Pub. L. 104-333, div. I, title IV, §406(a)(2), Nov. 12, 1996, 110 Stat. 4149; Pub. L. 111-11, title VII, §7115, Mar. 30, 2009, 123 Stat. 1202.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95-625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2009—Pub. L. 111-11, which directed substitution of “shall” for “may” in first sentence, was executed by substituting “shall” for “may” the first time appearing, which was preceding “permit hunting and fishing”.

1996—Pub. L. 104-333 inserted at end “The Secretary shall permit the State of West Virginia to undertake fish stocking activities carried out by the State, in consultation with the Secretary, on waters within the boundaries of the national river. Nothing in this Act shall be construed as affecting the jurisdiction of the State of West Virginia with respect to fish and wildlife.”

REGULATIONS

Pub. L. 108-108, title I, §150, Nov. 10, 2003, 117 Stat. 1281, provided that: “The National Park Service shall issue a special regulation concerning continued hunting at New River Gorge National River in compliance with the requirements of the Administrative Procedures [Procedure] Act [see Short Title note preceding section 551 of Title 5, Government Organization and Employees], with opportunity for public comment, and shall also comply with the National Environmental Policy Act [of 1969] [42 U.S.C. 4321 et seq.] as appropriate. Notwithstanding any other provision of law, the September 25, 2003 interim final rule authorizing continued hunting at New River Gorge National River shall be in effect until the final special regulation supercedes it.”

§ 460m-21. Project work prohibition; advisement to Secretary; report to Congress

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 the New River Gorge National River, 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. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the New River Gorge National River or on any stream tributary thereto which will not invade the area or diminish the scenic, recreation, and fish and wildlife values present in the area on November 10, 1978. 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, or request appropriations to begin construction on any such project whether heretofore or hereafter authorized, without advising the Secretary in writing of its intention to do so 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 section and would effect¹ the national river and the values to be protected by it under this section.

(Pub. L. 95-625, title XI, §1107, Nov. 10, 1978, 92 Stat. 3547.)

REFERENCES IN TEXT

The Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which 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.

§ 460m-22. General management plan; submission to Congressional committees

Within three years from November 10, 1978, the Secretary shall develop and transmit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, a general management plan for the protection and development of the national river consistent with the purposes of this subchapter, indicating—

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

(Pub. L. 95-625, title XI, §1109, Nov. 10, 1978, 92 Stat. 3548.)

CHANGE OF NAME

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.

§ 460m-23. Cooperation

The Secretary of the Army shall cooperate with the Secretary of the Interior concerning the water requirements of the national river. The Secretary of the Army shall provide for release of water from the Bluestone Lake project consistent with that project's purposes and activities in sufficient quantity and in such manner to facilitate protection of biological resources and recreational use of the national river.

(Pub. L. 95-625, title XI, §1110, Nov. 10, 1978, 92 Stat. 3548.)

§ 460m-24. Class I or class II redesignation for clean air purposes

For the purposes of part C of the Clean Air Act [42 U.S.C. 7470 et seq.], the State may redesignate the national river only as class I or class II.

(Pub. L. 95-625, title XI, §1111, Nov. 10, 1978, 92 Stat. 3548.)

REFERENCES IN TEXT

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§7401 et seq.) of Title 42. Part C of the Clean Air Act is classified generally to part C (§7470 et seq.) of subchapter I of chapter 85 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

§ 460m-25. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subchapter, but not to exceed \$20,000,000 for the acquisition of lands and interests in lands, and not to exceed \$3,000,000 for development.

(Pub. L. 95-625, title XI, §1112, Nov. 10, 1978, 92 Stat. 3548; Pub. L. 99-500, §101(h) [title I, §116(b)], Oct. 18, 1986, 100 Stat. 1783-242, 1783-266, and Pub. L. 99-591, §101(h) [title I, §116(b)], Oct. 30, 1986, 100 Stat. 3341-242, 3341-266; Pub. L. 99-590, title X, §1002, Oct. 30, 1986, 100 Stat. 3340.)

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

¹ So in original. Probably should be "affect".

AMENDMENTS

1986—Pub. L. 99-500, Pub. L. 99-590, Pub. L. 99-591, amended section identically substituting “\$3,000,000” for “\$500,000”.

§ 460m-26. Cooperative agreements with State

In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable or non-reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(Pub. L. 95-625, title XI, §1113, as added Pub. L. 100-534, title I, §102, Oct. 26, 1988, 102 Stat. 2700.)

§ 460m-27. Improvement of access at Cunard**(a) Development and improvement**

The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

(b) Interim measures

Pending completion of the developments and improvements referred to in subsection (a), the Secretary shall permit the motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is less than three thousand cubic feet per second.

(Pub. L. 95-625, title XI, §1114, as added Pub. L. 100-534, title I, §103, Oct. 26, 1988, 102 Stat. 2700.)

§ 460m-28. Flow management**(a) Findings**

The Congress finds that adjustments of flows from Bluestone Lake project during periods of low flow are necessary to respond to the congressional mandate contained in section 460m-23 of this title and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

(b) Report to Congress required

The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives not later than December 31, 1989. Before submission of the report to these Committees, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments.

(c) Contents of study

The study under this section shall examine the feasibility of adjusting the timing of daily re-

leases from Bluestone Lake project during periods when flows from the lake are less than three thousand cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and white-water recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments.

(d) Test procedures

As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake project during twenty-four-hour periods during the summer of 1989 when flows are less than three thousand cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c). The tests shall provide adjustments in the timing of daily flows from Bluestone Lake project which permit flows higher than the twenty-four-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than one thousand seven hundred cubic feet per second and no test shall reduce flows below that level.

(Pub. L. 95-625, title XI, §1115, as added Pub. L. 100-534, title I, §104, Oct. 26, 1988, 102 Stat. 2701.)

CHANGE OF NAME

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.

§ 460m-29. Glade Creek visitor facility

In order to provide for public use and enjoyment of the scenic and natural resources of the New River Gorge National River and in order to provide public information to visitors with respect to the national river and associated State parklands, the Secretary is authorized and directed to construct a scenic overlook and visitor information facility at a suitable location accessible from Interstate 64 in the vicinity of Glade Creek within the boundary of the national river. There is authorized to be appropriated such sums as may be necessary to carry out construction (including all related planning and design) of the scenic overlook and visitor information facility.

(Pub. L. 95-625, title XI, §1116, as added Pub. L. 100-534, title I, §105, Oct. 26, 1988, 102 Stat. 2702.)

§ 460m-29a. New River Gorge and Gauley River Visitor Center

The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

(Pub. L. 104-333, div. I, title IV, § 406(b), Nov. 12, 1996, 110 Stat. 4150.)

CODIFICATION

Section was enacted as part of the Omnibus Parks and Public Lands Management Act of 1996, and not as part of title XI of the National Parks and Recreation Act of 1978 which comprises this subchapter.

NEW RIVER VISITOR CENTER

Pub. L. 105-178, title I, § 1214(c), June 9, 1998, 112 Stat. 205, provided that:

“(1) IN GENERAL.—The Secretary shall allocate to the Secretary of the Interior amounts made available by this subsection for the planning, design, and construction of a visitor center, and such other related facilities as may be necessary, to facilitate visitor understanding and enjoyment of the scenic, historic, cultural, and recreational resources of the New River Gorge National River in the State of West Virginia. The center and related facilities shall be located at a site for which title is held by the United States in the vicinity of the I-64 Sandstone intersection.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,300,000 for fiscal year 1998, \$1,200,000 for fiscal year 1999, and \$9,900,000 for fiscal year 2000.

“(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.”

§ 460m-30. Applicable provisions of other law

(a) Cooperative agreements

The provisions of section 460ww-1(e)(1) of this title shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

(b) Remnant lands

The provisions of the second sentence of section 460ww-2(a) of this title shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to tracts of land only partially within the Gauley River National Recreation Area.

(Pub. L. 95-625, title XI, § 1117, as added Pub. L. 104-333, div. I, title IV, § 406(a)(3), Nov. 12, 1996, 110 Stat. 4150.)

SUBCHAPTER LXXII—LAKE MEAD NATIONAL RECREATION AREA

§ 460n. Administration

In recognition of the national significance of the Lake Mead National Recreation Area, in the States of Arizona and Nevada, and in order to establish a more adequate basis for effective administration of such area for the public benefit, the Secretary of the Interior hereafter may exercise the functions and carry out the activities prescribed by this subchapter.

(Pub. L. 88-639, § 1, Oct. 8, 1964, 78 Stat. 1039.)

§ 460n-1. Boundaries of area; filing of map with Federal Register; revision; donations of land; property acquisition and exclusion

Lake Mead National Recreation Area shall comprise that particular land and water area which is shown on a certain map, identified as “boundary map, RA-LM-7060-B, revised July 17, 1963”, which is on file and which shall be available for public inspection in the office of the National Park Service of the Department of the Interior. An exact copy of such map shall be filed with the Federal Register within thirty days following October 8, 1964, and an exact copy thereof shall be available also for public inspection in the headquarters office of the superintendent of the said Lake Mead National Recreation Area.

The Secretary of the Interior is authorized to revise the boundaries of such national recreation area, subject to the requirement that the total acreage of that area, as revised, shall be no greater than the present acreage thereof. In the event of such boundary revision, maps of the recreation area, as revised, shall be prepared by the Department of the Interior, and shall be filed in the same manner, and shall be available for public inspection also in accordance with the aforesaid procedures and requirements relating to the filing and availability of maps. The Secretary may accept donations of land and interests in land within the exterior boundaries of such area, or such property may be procured by the Secretary in such manner as he shall consider to be in the public interest.

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within the boundaries of the recreation area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary, 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.

Establishment or revision of the boundaries of the said national recreation area, as herein prescribed, shall not affect adversely any valid rights in the area, nor shall it affect the validity of withdrawals heretofore made for reclamation or power purposes. All lands in the recreation area which have been withdrawn or acquired by the United States for reclamation purposes shall remain subject to the primary use thereof for reclamation and power purposes so long as they