

which a patent application has been filed, within the recreation area. Upon determination by the Secretary of Agriculture that the elements of a contest are present, the Secretary of the Interior shall immediately determine the validity of such claims. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

**(e) Public purposes**

The Secretary may utilize mineral materials from within the recreation area for public purposes such as maintenance and construction of roads, trails, and facilities as long as such use is compatible with the purposes of the recreation area.

(Pub. L. 103-104, § 3, Oct. 12, 1993, 107 Stat. 1028.)

CHANGE OF NAME

References to United States Claims Court deemed to refer to United States Court of Federal Claims, see section 902(b) of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

**§ 460jjj-3. Adjoining lands**

The Secretary may evaluate lands adjoining the recreation area for possible inclusion in the recreation area and make recommendations to Congress, including (but not limited to) that area authorized for study by section 5 of Public Law 101-556 (104 Stat. 2764), known as the Baca Location Number 1. The Secretary, in consultation with local tribal leaders and the National Park Service, shall, no later than 2 years after October 12, 1993, submit recommendations with respect to future boundaries for the recreation area.

(Pub. L. 103-104, § 4, Oct. 12, 1993, 107 Stat. 1028.)

REFERENCES IN TEXT

Public Law 101-556, referred to in text, is not classified to the Code.

**§ 460jjj-4. Acquisition of land**

**(a) State land**

Land and interests in land within the boundaries of the recreation area that are owned by the State of New Mexico, or a political subdivision of New Mexico, may be acquired only by donation or exchange.

**(b) Offers to sell**

**(1) In general**

Subject to paragraph (2), the Secretary may acquire land and interests in land within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange.

**(2) Limitation**

The Secretary may not acquire lands within the recreation area without the consent of the owner thereof unless the Secretary has determined that such lands will be put to a use different from their use as of October 12, 1993, and that such new use would be incompatible with the protection of the natural and cultural resources of the recreation area.

(Pub. L. 103-104, § 5, Oct. 12, 1993, 107 Stat. 1029.)

**§ 460jjj-5. Authorization of appropriations**

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.

(Pub. L. 103-104, § 6, Oct. 12, 1993, 107 Stat. 1029.)

SUBCHAPTER CXXII—BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA

**§ 460kkk. Boston Harbor Islands National Recreation Area**

**(a) Purposes**

The purposes of this section are—

(1) to preserve for public use and enjoyment the lands and waters that comprise the Boston Harbor Islands National Recreation Area;

(2) to manage the recreation area in partnership with the private sector, the Commonwealth of Massachusetts, municipalities surrounding Massachusetts and Cape Cod Bays, the Thompson Island Outward Bound Education Center, and Trustees of Reservations, and with historical, business, cultural, civic, recreational and tourism organizations;

(3) to improve access to the Boston Harbor Islands through the use of public water transportation; and

(4) to provide education and visitor information programs to increase public understanding of and appreciation for the natural and cultural resources of the Boston Harbor Islands, including the history of Native American use and involvement.

**(b) Definitions**

For the purposes of this section—

(1) the term “recreation area” means the Boston Harbor Islands National Recreation Area established by subsection (c); and

(2) the term “Secretary” means the Secretary of the Interior.

**(c) Boston Harbor Islands National Recreation Area**

**(1) Establishment**

In order to preserve for the benefit and inspiration of the people of the United States as a national recreation area certain lands located in Massachusetts Bay, there is established as a unit of the National Park System the Boston Harbor Islands National Recreation Area.

**(2) Boundaries**

(A) The recreation area shall be comprised of the lands, waters, and submerged lands generally depicted on the map entitled “Proposed Boston Harbor Islands NRA”, numbered BOHA 80,002, and dated September 1996. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. After advising the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(B) The recreation area shall include the following:

(i) The areas depicted on the map referenced in subparagraph (A).

(ii) Landside points required for access, visitor services, and administration in the city of Boston along its Harborwalk and at Long Wharf, Fan Pier, John F. Kennedy Library, and the Custom House; Charlestown Navy Yard; Old Northern Avenue Bridge; the city of Quincy at Squantum Point/Marina Bay, the Fore River Shipyard, and Town River; the Town of Hingham at Hewitt's Cove; the Town of Hull; the city of Salem at Salem National Historic Site; and the city of Lynn at the Heritage State Park.

**(3) Land acquisition**

Notwithstanding subsection (h), the Secretary is authorized to acquire, in partnership with other entities, a less than fee interest in lands at Thompson Island within the recreation area. The Secretary may acquire the lands only by donation, purchase with donated or appropriated funds, or by exchange.

**(d) Administration of recreation area**

**(1) In general**

The recreation area shall be administered in partnership by the Secretary, the Commonwealth of Massachusetts, City of Boston and its applicable subdivisions and others in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4),<sup>1</sup> and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467)<sup>1</sup> as amended and supplemented and in accordance with the integrated management plan specified in subsection (f).

**(2) State and local jurisdiction**

Nothing in this section shall be construed to diminish, enlarge, or modify any right of the Commonwealth of Massachusetts or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State laws, rules, and regulations within the recreation area, including those relating to fish and wildlife, or to tax persons, corporations, franchises, or private property on the lands and waters included in the recreation area.

**(3) Agreements**

**(A) Definition of eligible entity**

In this paragraph, the term "eligible entity" means—

- (i) the Commonwealth of Massachusetts;
- (ii) a political subdivision of the Commonwealth of Massachusetts; or
- (iii) any other entity that is a member of the Boston Harbor Islands Partnership described in subsection (e)(2).

**(B) Authority of Secretary**

Subject to subparagraph (C), the Secretary may consult with an eligible entity on, and enter into with the eligible entity—

(i) a cooperative management agreement to acquire from, and provide to, the eligible entity goods and services for the cooperative management of land within the recreation area; and

(ii) notwithstanding section 6305 of title 31, a cooperative agreement for the construction of recreation area facilities on land owned by an eligible entity for purposes consistent with the management plan under subsection (f).

**(C) Conditions**

The Secretary may enter into an agreement with an eligible entity under subparagraph (B) only if the Secretary determines that—

- (i) appropriations for carrying out the purposes of the agreement are available; and
- (ii) the agreement is in the best interests of the United States.

**(4) Construction of facilities on non-Federal lands**

In order to facilitate the administration of the recreation area, the Secretary is authorized, subject to the appropriation of necessary funds in advance, to construct essential administrative or visitor use facilities on non-Federal public lands within the recreation area. Such facilities and the use thereof shall be in conformance with applicable plans.

**(5) Other property, funds, and services**

The Secretary may accept and use donated funds, property, and services to carry out this section.

**(6) Relationship of recreation area to Boston-Logan International Airport**

With respect to the recreation area, the present and future maintenance, operation, improvement and use of Boston-Logan International Airport and associated flight patterns from time to time in effect shall not be deemed to constitute the use of publicly owned land of a public park, recreation area, or other resource within the meaning of section 303(c) of title 49, and shall not be deemed to have a significant effect on natural, scenic, and recreation assets within the meaning of section 47101(h)(2) of title 49.

**(7) Management in accordance with integrated management plan**

The Secretary shall preserve, interpret, manage, and provide educational and recreational uses for the recreation area, in consultation with the owners and managers of lands in the recreation area, in accordance with the integrated management plan.

**(e) Boston Harbor Islands Partnership establishment**

**(1) Establishment**

There is hereby established the Boston Harbor Islands Partnership whose purpose shall be to coordinate the activities of Federal, State, and local authorities and the private sector in the development and implementation of an integrated resource management plan for the recreation area.

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

**(2) Membership**

The Partnership shall be composed of 13 members, as follows:

(A) One individual, appointed by the Secretary, to represent the National Park Service.

(B) One individual, appointed by the Commandant of the Coast Guard.<sup>2</sup>

(C) Two individuals, appointed by the Secretary, after consideration of recommendations by the Governor of Massachusetts, to represent the Department of Environmental Management and the Metropolitan District Commission.

(D) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Port Authority.

(E) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Water Resources Authority.

(F) One individual, appointed by the Secretary, after consideration of recommendations by the Mayor of Boston, to represent the Office of Environmental Services of the City of Boston.

(G) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Boston Redevelopment Authority.

(H) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Thompson Island Outward Bound Education Center, to represent the Center.

(I) One individual, appointed by the Secretary, after consideration of recommendations of the Chair, to represent the Trustees of Reservations.

(J) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Island Alliance, to represent the Alliance, a nonprofit organization whose sole purpose is to provide financial support for the Boston Harbor Islands National Recreation Area.

(K) Two individuals, appointed by the Secretary, to represent the Boston Harbor Islands Advisory Council, established in subsection (g).

**(3) Terms of office; reappointment**

(A) Members of the Partnership shall serve for terms of three years. Any member may be reappointed for one additional 3-year term.

(B) The Secretary shall appoint the first members of the Partnership within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J) of paragraph (2).

(C) A member may serve after the expiration of his or her term until a successor has been appointed.

**(4) Compensation**

Members of the Partnership shall serve without pay, but while away from their homes

or regular places of business in the performance of services for the Partnership, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

**(5) Election of officers**

The Partnership shall elect one of its members as Chairperson and one as Vice Chairperson. The term of office of the Chairperson and Vice Chairperson shall be one year. The Vice Chairperson shall serve as chairperson in the absence of the Chairperson.

**(6) Vacancy**

Any vacancy on the Partnership shall be filled in the same manner in which the original appointment was made.

**(7) Meetings**

The Partnership shall meet at the call of the Chairperson or a majority of its members.

**(8) Quorum**

A majority of the Partnership shall constitute a quorum.

**(9) Staff of the Partnership**

The Secretary shall provide the Partnership with such staff and technical assistance as the Secretary, after consultation with the Partnership, considers appropriate to enable the Partnership to carry out its duties. The Secretary may accept the services of personnel detailed from the Commonwealth of Massachusetts, any political subdivision of the Commonwealth or any entity represented on the Partnership.

**(10) Hearings**

The Partnership may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Partnership may deem appropriate.

**(11) Donations**

Notwithstanding any other provision of law, the Partnership may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out this section.

**(12) Use of funds to obtain money**

The Partnership may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

**(13) Mails**

The Partnership may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

**(14) Obtaining property**

The Partnership may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties, except that the Partnership may not acquire any real property or interest in real property.

<sup>2</sup> So in original.

**(15) Cooperative agreements**

For purposes of carrying out the plan described in subsection (f), the Partnership may enter into cooperative agreements with the Commonwealth of Massachusetts, any political subdivision thereof, or with any organization or person.

**(f) Integrated resource management plan****(1) In general**

Within three years after November 12, 1996, the Partnership shall submit to the Secretary a management plan for the recreation area to be developed and implemented by the Partnership.

**(2) Contents of plan**

The plan shall include (but not be limited to) each of the following:

(A) A program providing for coordinated administration of the recreation area with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, and local levels, and non-profit organizations, including each of the following:

(i) A plan to finance and support the public improvements and services recommended in the plan, including allocation of non-Federal matching requirements set forth in subsection (h)(2) and a delineation of private-sector roles and responsibilities.

(ii) A program for the coordination and consolidation, to the extent feasible, of activities that may be carried out by Federal, State, and local agencies having jurisdiction over land and waters within the recreation area, including planning and regulatory responsibilities.

(B) Policies and programs for the following purposes:

(i) Enhancing public outdoor recreational opportunities in the recreation area.

(ii) Conserving, protecting, and maintaining the scenic, historical, cultural, natural and scientific values of the islands.

(iii) Developing educational opportunities in the recreation area.

(iv) Enhancing public access to the Islands, including development of transportation networks.

(v) Identifying potential sources of revenue from programs or activities carried out within the recreation area.

(vi) Protecting and preserving Native American burial grounds connected with the King Philip's War internment period and other periods.

(C) A policy statement that recognizes existing economic activities within the recreation area.

**(3) Development of plan**

In developing the plan, the Partnership shall—

(A) consult on a regular basis with appropriate officials of any local government or

Federal or State agency which has jurisdiction over lands and waters within the recreation area;

(B) consult with interested conservation, business, professional, and citizen organizations; and

(C) conduct public hearings or meetings for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

**(4) Approval of plan**

(A) The Partnership shall submit the plan to the Governor of Massachusetts for review. The Governor shall have 90 days to review and make any recommendations. After considering the Governor's recommendations, the Partnership shall submit the plan to the Secretary, who shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(i) The adequacy of public participation.

(ii) Assurances of plan implementation from State and local officials.

(iii) The adequacy of regulatory and financial tools that are in place to implement the plan.

(B) If the Secretary disapproves the plan, the Secretary shall within 60 days after the date of such disapproval, advise the Partnership in writing of the reasons therefore, together with recommendations for revision. Within 90 days of receipt of such notice of disapproval, the Partnership shall revise and re-submit the plan to the Secretary who shall approve or disapprove the revision within 60 days.

**(5) Interim program**

Prior to adoption of the Partnership's plan, the Secretary and the Partnership shall assist the owners and managers of lands and waters within the recreation area to ensure that existing programs, services, and activities that promote the purposes of this section are supported.

**(g) Boston Harbor Islands Advisory Council****(1) Establishment**

The Secretary, acting through the Director of the National Park Service, shall establish an advisory committee to be known as the Boston Harbor Islands Advisory Council. The purpose of the Advisory Council shall be to represent various groups with interests in the recreation area and make recommendations to the Boston Harbor Islands Partnership on issues related to the development and implementation of the integrated resource management plan developed under subsection (f). The Advisory Council is encouraged to establish committees relating to specific recreation area management issues, including (but not limited to) education, tourism, transportation, natural resources, cultural and historic resources, and revenue-raising activities. Participation on any such committee shall not be limited to members of the Advisory Council.

**(2) Membership**

The Advisory Council shall consist of not fewer than 18 individuals, to be appointed by

the Secretary, acting through the Director of the National Park Service. The Secretary shall appoint no fewer than three individuals to represent each of the following categories of entities: municipalities; educational and cultural institutions; environmental organizations; business and commercial entities, including those related to transportation, tourism and the maritime industry; and Boston Harbor-related advocacy organizations; and organizations representing Native American interests.

### (3) Procedures

Each meeting of the Advisory Council and its committees shall be open to the public.

### (4) FACA

The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), are hereby waived with respect to the Advisory Council.

## (h) Authorization of appropriations

### (1) In general

There are authorized to be appropriated such sums as may be necessary to carry out this section, provided that no funds may be appropriated for land acquisition.

### (2) Matching requirement

Amounts appropriated in any fiscal year to carry out this section may only be expended on a matching basis in a ratio of at least three non-Federal dollars to every Federal dollar. The non-Federal share of the match may be in the form of cash, services, or in-kind contributions, fairly valued.

(Pub. L. 104-333, div. I, title X, §1029, Nov. 12, 1996, 110 Stat. 4232; Pub. L. 105-355, title V, §513, Nov. 6, 1998, 112 Stat. 3266; Pub. L. 106-176, title I, §126, Mar. 10, 2000, 114 Stat. 30; Pub. L. 108-352, §12, Oct. 21, 2004, 118 Stat. 1397; Pub. L. 109-241, title IX, §902(h)(1), July 11, 2006, 120 Stat. 567; Pub. L. 111-11, title VII, §7109, Mar. 30, 2009, 123 Stat. 1197; Pub. L. 111-281, title IX, §903(a)(8), Oct. 15, 2010, 124 Stat. 3010.)

#### REFERENCES IN TEXT

The Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4), referred to in subsec. (d)(1), 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 Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467), referred to in subsec. (d)(1), is act Aug. 21, 1935, ch. 593, 49 Stat. 666, known as the Historic Sites Act of 1935 and also as the Historic Sites, Buildings, and Antiquities Act, which enacted sections 461 to 467 of this title. The Act was repealed and restated as section 1866(a) of Title 18, Crimes and Criminal Procedure, and sections 102303 and 102304 and chapter 3201 of Title 54,

National Park Service and Related Programs, 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.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (g)(4), is section 14 of Pub. L. 92-463, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### AMENDMENTS

2010—Subsec. (e)(2)(B). Pub. L. 111-281 made technical amendment to directory language of Pub. L. 109-241, §902(h)(1). See 2006 Amendment note below.

2009—Subsec. (d)(3). Pub. L. 111-11, §7109(a), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "The Secretary may consult and enter into cooperative agreements with the Commonwealth of Massachusetts or its political subdivisions to acquire from and provide to the Commonwealth or its political subdivisions goods and services to be used in the cooperative management of lands within the recreation area, if the Secretary determines that appropriations for that purpose are available and the agreement is in the best interest of the United States."

Subsec. (e)(2)(B). Pub. L. 111-11, §7109(b)(1), substituted "Coast Guard." for "Coast Guard".

Subsec. (e)(11). Pub. L. 111-11, §7109(b)(2), substituted "Notwithstanding" for "Notwithstanding".

2006—Subsec. (e)(2)(B). Pub. L. 109-241, §902(h)(1), as amended by Pub. L. 111-281, §903(a)(8), substituted "Commandant of the Coast Guard." for "Secretary of Transportation, to represent the United States Coast Guard."

2004—Subsec. (c)(2)(B)(i). Pub. L. 108-352, §12(1), substituted "referenced" for "reference".

Subsec. (d)(4). Pub. L. 108-352, §12(2), inserted period after "plans".

2000—Pub. L. 106-176, §126(1), substituted "National Recreation Area" for "Recreation Area" in section catchline.

Subsec. (b)(1). Pub. L. 106-176, §126(2), inserted quotation marks around "recreation area".

Subsec. (e)(3)(B). Pub. L. 106-176, §126(3), which directed substitution of "subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J) of paragraph (2)." for "subsections (b)(3), (4), (5), (6), (7), (8), (9), and (10) of this section.", was executed by making the substitution for text that did not include the phrase "of this section.."

Subsec. (f)(2)(A)(i). Pub. L. 106-176, §126(4), substituted "private-sector roles" for "profit sector roles".

Subsec. (g)(1). Pub. L. 106-176, §126(5), substituted "and revenue-raising activities." for "and revenue raising activities."

Subsec. (h)(2). Pub. L. 106-176, §126(6), substituted "ratio" for "ration".

1998—Subsec. (c)(3). Pub. L. 105-355 added par. (3).

#### CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-281, title IX, §903(a), Oct. 15, 2010, 124 Stat. 3010, provided that the amendment by section 903(a)(8) is effective with enactment of Pub. L. 109-241.

## SUBCHAPTER CXXIII—LAND BETWEEN THE LAKES PROTECTION

### § 460III. Definitions

In this subchapter:

#### (1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.