

streams, tributaries, or rivers (or segments thereof) located in a national wild, scenic or recreational river area.

(g) Easements and rights-of-way

The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may grant easements and rights-of-way upon, over, under, across, or through any component of the national wild and scenic rivers system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purpose of this chapter.

(Pub. L. 90-542, § 13, Oct. 2, 1968, 82 Stat. 917.)

§ 1285. Claim and allowance of charitable deduction for contribution or gift of easement

The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate at its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed as a charitable contribution or gift.

(Pub. L. 90-542, § 14, Oct. 2, 1968, 82 Stat. 918.)

§ 1285a. Lease of Federal lands

(a) Authority of Secretary; restrictive covenants

Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this chapter. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this chapter.

(b) Offer to prior owner

Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.

(Pub. L. 90-542, § 14A, as added Pub. L. 95-625, title VII, § 764, Nov. 10, 1978, 92 Stat. 3534.)

§ 1285b. Establishment of boundaries for certain component rivers in Alaska; withdrawal of minerals

Notwithstanding any other provision to the contrary in sections 1274 and 1280 of this title, with respect to components of the National Wild and Scenic Rivers System in Alaska designated by paragraphs (38) through (50) of section 1274(a) of this title —

(1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary

extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and

(2) the withdrawal made by paragraph (iii) of section 1280(a) of this title shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.

(Pub. L. 90-542, § 15, as added Pub. L. 96-487, title VI, § 606(a), Dec. 2, 1980, 94 Stat. 2416.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in par. (2), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 1286. Definitions

As used in this chapter, the term—

(a) “River” means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(b) “Free-flowing”, as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

(c) “Scenic easement” means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner’s consent, any regular use exercised prior to the acquisition of the easement. For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this chapter. Such an acquisition shall not constitute fee title ownership for purposes of section 1277(b) of this title.

(Pub. L. 90-542, § 16, formerly § 15, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93-279, § 1(c), May 10, 1974, 88 Stat. 123; renumbered Pub. L. 96-487, title VI, § 606(a), Dec. 2, 1980, 94 Stat. 2416; Pub. L. 99-590, title V, § 510, Oct. 30, 1986, 100 Stat. 3337.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-590 inserted provisions relating to function of appropriate Secretary with respect to acquisition of fee title.

1974—Subsec. (c). Pub. L. 93-279 substituted “within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area” for “for the purposes of protecting the scenic view from the river”.

§ 1287. Authorization of appropriations

There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers (described in section 1274(a) of this title):

Clearwater, Middle Fork, Idaho, \$2,909,800;
 Eleven Point, Missouri, \$10,407,000;
 Feather Middle Fork, California, \$3,935,700;
 Rio Grande, New Mexico, \$253,000;
 Rogue, Oregon, \$15,147,000;
 St. Croix, Minnesota and Wisconsin, \$21,769,000;
 Salmon Middle Fork, Idaho, \$1,837,000;
 Wolf, Wisconsin, \$142,150.

(Pub. L. 90-542, §17, formerly §16, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93-279, §1(d), May 10, 1974, 88 Stat. 123; Pub. L. 94-273, §2(11), Apr. 21, 1976, 90 Stat. 375; Pub. L. 95-625, title VII, §§751-754, 763(c), Nov. 10, 1978, 92 Stat. 3532, 3533; renumbered Pub. L. 96-487, title VI, §606(a), Dec. 2, 1980, 94 Stat. 2416.)

AMENDMENTS

1978—Pub. L. 95-625, §§751-754, 763(c), increased appropriations authorization for the following rivers, substituting for:

Eleven Point, \$10,407,000 for \$4,906,500;
 Rogue, \$15,147,000 for \$12,447,200;
 Saint Croix, \$21,769,000 for \$11,768,550; and
 Salmon, \$1,837,000 for \$1,237,100; and

struck out subsec. (a) designation and subsec. (b) which provided for expiration of authority to make authorized appropriations on Sept. 30, 1979.

1976—Subsec. (b). Pub. L. 94-273 substituted "September" for "June".

1974—Pub. L. 93-279 added subsecs. (a) and (b). Former unlettered provisions authorizing appropriation of amounts up to \$17,000,000 for the acquisition of lands and interests in land were struck out.

CHAPTER 29—WATER BANK PROGRAM FOR WETLANDS PRESERVATION

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§ 1301. Congressional declaration of policy; authority of Secretary

The Congress finds that it is in the public interest to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning. The Secretary of Agriculture (hereinafter in this chapter referred to as the "Secretary") is authorized and directed to formulate and carry out a continuous program to prevent the serious loss of wetlands, and to preserve, restore, and improve such lands, which program shall begin on July 1, 1971.

(Pub. L. 91-559, §2, Dec. 19, 1970, 84 Stat. 1468.)

SHORT TITLE

Pub. L. 91-559, §1, Dec. 19, 1970, 84 Stat. 1468, provided: "That this Act [enacting this chapter] may be cited as the 'Water Bank Act'."

§ 1302. Conservation agreements to effectuate water bank program; duration and renewal; adjustment of payment rate for renewal period; "wetlands" defined; duration of ownership or control of land as determining eligibility for agreements; protection of and compensation for tenants and sharecroppers; participation by owner or operator in other Federal or State programs

In effectuating the water bank program authorized by this chapter, the Secretary shall have authority to enter into agreements with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located, under such rules and regulations as the Secretary may prescribe. These agreements shall be entered into for a period of ten years, with provision for renewal for additional periods of ten years each. The Secretary shall, beginning in 1980, reexamine the payment rates at the beginning of the fifth year of any such ten-year initial or renewal period and before the beginning of any renewal period, in the light of the then current land and crop values, and make needed adjustments in rates for any such initial or renewal period as provided in section 1304 of this title. In addition, the Secretary shall, beginning in 1980, reexamine the payment rates in any agreement that has been in effect for five years or more in the light of current land and crop values and make any needed adjustments in rates. As used in this chapter, the term "wetlands" means (1) the inland fresh areas described as types 1 through 7 in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (or