

management area land use ordinances. Upon concurrence of such land use ordinances by the Secretary they shall supersede any special management area land use ordinances for the county development by the Commission, subject to valid existing rights.

**(n) Effect of Secretary's non-concurrence**

If the Secretary does not concur in any land use ordinance approved or adopted by the Commission pursuant to this section, the availability of certain funds to the relevant county shall be governed by section 544n(c) of this title.

**(o) Special rules**

**(1) In general**

Any ordinance adopted pursuant to this section shall not apply to any parcel or parcels of land within a special management area if, after the date such ordinance has been adopted, three years have elapsed after a landowner has made a bona fide offer to sell at fair market value or otherwise convey such parcel or parcels to the Secretary, unless the affected landowner agrees to an extension of the three year period: *Provided*, That an offer shall not be considered bona fide if the landowner refuses consideration equal to the fair market value as appraised in accordance with section 544g(e) of this title. Lands for which an ordinance is suspended pursuant to this subsection shall be subject to the relevant scenic area land use ordinance adopted pursuant to section 544e of this title.

**(2) Applicability**

This subsection shall not apply to any land offered to the Secretary for acquisition after March 31, 2001.

(Pub. L. 99-663, §8, Nov. 17, 1986, 100 Stat. 4283; Pub. L. 106-291, title III, §346(b), Oct. 11, 2000, 114 Stat. 999.)

AMENDMENTS

2000—Subsec. (o). Pub. L. 106-291 designated existing provisions as par. (1), inserted par. heading, substituted “section 544g(e) of this title.” for “the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 1973).” in first sentence, and added par. (2).

ADMINISTRATION, OPERATION, AND MAINTENANCE OF PIERCE NATIONAL WILDLIFE REFUGE AND LITTLE WHITE SALMON NATIONAL FISH HATCHERY

Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 418, provided in part that: “Notwithstanding the provisions of Public Law 99-663 [enacting sections 544 to 544p of this title and amending sections 1274 and 1276 of this title], which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the National Wildlife Refuge System Administration Act [16 U.S.C. 668dd, 668ee], Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], and Fish and Wildlife Act of 1956 [16 U.S.C. 742a et seq.] by the U.S. Fish and Wildlife Service.”

**§ 544g. Land acquisition**

**(a) Acquisition authorized**

(1) The Secretary is authorized to acquire any lands or interests therein within the special management areas and the Dodson/Warrendale

Special Purchase Unit which the Secretary determines are needed to achieve the purposes of sections 544 to 544p of this title: *Provided*, That any lands, waters, or interests therein owned by either State or any political subdivision thereof may be acquired only by donation or exchange.

(2) Lands within the State of Oregon acquired by the Secretary pursuant to sections 544 to 544p of this title shall become part of the Mount Hood National Forest. Lands within the State of Washington acquired by the Secretary pursuant to this section shall become part of the Gifford Pinchot National Forest. All lands acquired by the Secretary pursuant to sections 544 to 544p of this title shall be subject to the laws and regulations pertaining to the National Forest System and sections 544 to 544p of this title.

**(b) Limitations on eminent domain**

(1) Where authorized in subsection (a) of this section to acquire land or interests therein without the consent of the owner, the Secretary shall—

(A) acquire only such land or interests therein as is reasonably necessary to accomplish the purposes of sections 544 to 544p of this title; and

(B) do so only in cases where all reasonable efforts to acquire with the consent of the owner such lands, or interests therein, have failed.

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary may not acquire without the consent of the owner lands or interests therein which—

(A) on November 17, 1986, were used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming, or grazing so long as the existing character of that use is not substantially changed or permitted for change;

(B) are located in counties with land use ordinances in which the Secretary has concurred pursuant to section 544f of this title, unless such lands are being used, or are in imminent danger of being used, in a manner incompatible with such ordinances;

(C) are within the boundaries of the Dodson/Warrendale Special Purchase Unit; or

(D) are owned by an Indian tribe, held in trust by the United States for an Indian tribe or member of an Indian tribe, or otherwise administered by the United States for the benefit of an Indian tribe or member of an Indian tribe.

**(c) Hardship cases**

In exercising authority to acquire lands pursuant to this section the Secretary shall give prompt and careful consideration to any offer made by any person or entity owning any land, or interest in land, within the boundaries of a special management area. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

**(d) Land exchanges**

(1) The Secretary is authorized and directed, in conformance with the provisions of this subsection, to acquire by exchange any parcel of

unimproved forest land at least forty acres in size within the boundaries of the special management areas which is owned by any private forest land owner if, after November 17, 1986, but within one hundred and eighty days after final adoption of the management plan, such private forest land owner offers to the United States such parcel of forest land.

(2) In exercising this authority to acquire forest lands pursuant to this subsection, the Secretary may accept title to such lands and convey to the owner federally owned lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located. Forest lands exchanged pursuant to this subsection shall be of approximately equal value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged: *Provided further*, That the Secretary may reserve in any conveyance pursuant to this subsection such easements, subsurface rights, and any other interests in land deemed necessary or desirable: *Provided further*, That the valuation of lands exchanged shall be determined in terms of forest uses for timber.

(3) It is the intention of Congress that land exchanges pursuant to this subsection shall be completed no later than five years after November 17, 1986.

(4) In the event that exchanges authorized by this section leave any private forest land owner with ownership of an uneconomic remnant of forest land contiguous to a special management area, the Secretary is authorized to acquire such forest lands as if they were within the boundaries of a special management area.

(5) The following-described Federal lands and interests therein are hereby identified as candidate lands for exchanges conducted pursuant to this section: *Provided*, That the determination of which candidate lands will be exchanged, and in what sequence, shall be at the discretion of the Secretary. Subject to valid existing rights, such lands are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry, and patent under the United States mining law, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto until the Secretary determines such lands are no longer needed to complete exchanges authorized by this section: *Provided*, That such period shall not extend beyond five years:

GIFFORD PINCHOT NATIONAL FOREST		
Wind River-Panther Creek Area		
Section	Township	Range
35	4N	7E
36	4N	7E
Approx. 430 acres.		
South Swift Area		
Section	Township	Range
13	6N	5E
23	6N	5E
17	6N	6E
18	6N	6E
Approx. 1,920 acres.		

National Area		
Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E
Approx. 2,560 acres.		

Buck Creek-Willard Area		
Section	Township	Range
16	3N	9E
1	4N	9E
2	4N	9E
3	4N	9E
10	4N	9E
11	4N	9E
12	4N	9E
15	4N	9E
21	4N	9E
22	4N	9E
26	4N	9E
27	4N	9E
28	4N	9E
29	4N	9E
30	4N	9E
31	4N	9E
32	4N	9E
33	4N	9E
34	4N	9E
35	4N	9E
6	4N	10E
7	4N	10E
5	5N	10E
6	5N	10E
7	5N	10E
8	5N	10E
9	5N	10E
30	5N	10E
31	5N	10E
32	5N	10E
Approx. 14,460 acres.		

SIUSLAW NATIONAL FOREST		
East Beaver Area		
Section	Township	Range
33	2S	9W
34	2S	9W
2	3S	9W
3	3S	9W
4	3S	9W
8	3S	9W
9	3S	9W
17	3S	9W
Approx. 3,053 acres.		

WILLAMETTE NATIONAL FOREST		
Ida-McCoy Area		
Section	Township	Range
21	10S	6E
28	10S	6E
Approx. 680 acres.		

MOUNT HOOD NATIONAL FOREST		
Estacada Area		
Section	Township	Range
15	4S	5E
Approx. 560 acres.		

Hood River Area		
Section	Township	Range
4	1N	9E
36	1N	10E
31	1N	11E
2	1S	9E
3	1S	9E
4	1S	9E
5	1S	9E
6	1S	9E
Approx. 5,800 acres.		

Zig-Zag Area		
Section	Township	Range
22	2S	7E

Zig-Zag Area—Continued

Section	Township	Range
29	2S	7E

Approx. 280 acres.  
Total acreage: 29,743.

**(e) Appraisals**

**(1) Definition of landowner**

In this subsection, the term “landowner” means the owner of legal or equitable title as of September 1, 2000.

**(2) Appraisal standards**

Except as provided in paragraph (3), land acquired or conveyed by purchase or exchange under this section shall be appraised in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.

**(3) Special management areas**

**(A) Before April 1, 2001**

Land within a special management area for which the landowner, before April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised—

- (i) without regard to the effect of any zoning or land use restriction made in response to sections 544 to 544p of this title; but
- (ii) subject to any other current zoning or land use restriction imposed by the State or locality in which the land is located on the date of the offer.

**(B) On or after April 1, 2001**

Land within a special management area for which the landowner, on or after April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised subject to—

- (i) any zoning or land use restriction made in response to sections 544 to 544p of this title; and
- (ii) any other current zoning or land use restriction that applies to the land on the date of the offer.

**(f) Authorization for certain land exchanges**

**(1) In general**

To facilitate priority land exchanges through which land within the boundaries of the White Salmon Wild and Scenic River or within the scenic area is conveyed to the United States, the Secretary may accept title to such land as the Secretary determines to be appropriate within the States, regardless of the State in which the land conveyed by the Secretary in exchange is located, in accordance with land exchange authorities available to the Secretary under applicable law.

**(2) Special rule for land certain exchanges**

Notwithstanding any other provision of law—

- (A) any exchange described in paragraph (1) for which an agreement to initiate has been executed as of September 30, 2000, shall continue; and
- (B) any timber stumpage proceeds collected under the exchange shall be retained

by the Forest Service to complete the exchange.

**(g) Boundaries**

For the purposes of sections 100506(c) and 200306 of title 54, the boundaries of the scenic area, including special management areas and the Dodson/Warrendale Special Purchase Unit shall be treated as if they were within the boundaries of the Mount Hood or Gifford Pinchot National Forests as of January 1, 1965.

(Pub. L. 99-663, §9, Nov. 17, 1986, 100 Stat. 4287; Pub. L. 104-66, title I, §1011(n), Dec. 21, 1995, 109 Stat. 710; Pub. L. 106-291, title III, §346(a), Oct. 11, 2000, 114 Stat. 999.)

CODIFICATION

In subsec. (g), “sections 100506(c) and 200306 of title 54” substituted for “section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9) [sic]” on authority of Pub. L. 113-287, §6(e), Dec. 19, 2014, 128 Stat. 3272, which Act enacted Title 54, National Park Service and Related Programs.

AMENDMENTS

- 2000—Subsecs. (e) to (g). Pub. L. 106-291 added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).
- 1995—Subsec. (d)(3). Pub. L. 104-66 struck out provision at end requiring Secretary to report to Congress on status of negotiations with owners of non-Federal lands regarding land exchanges.

PUBLICATION OF NOTICE

Pub. L. 106-291, title III, §346(c), Oct. 11, 2000, 114 Stat. 1000, provided that:

“(1) Not later than November 1, 2000, the Secretary of Agriculture shall provide notice of the provisions contained in the amendments made by subsections (a) and (b) [amending this section and section 544f of this title] through—

“(A) publication of a notice in the Federal Register and in newspapers of general circulation in the counties in the Columbia River Gorge National Scenic Area; and

“(B) posting of a notice in each facility of the United States Postal Service located in those counties.

“(2) If the counties wherein special management areas are located provide the Forest Service administrator of the Columbia River Gorge National Scenic Area lists of the names and addresses of landowners within the special management areas as of September 1, 2000, the Forest Service shall send to such names and addresses by certified first class mail notice of the provisions contained in the amendments made by subsections (a) and (b);

“(A) The mailing shall occur within twenty working days of the receipt of the list; and

“(B) The mailing shall constitute constructive notice to landowners, and proof of receipt by the addressee shall not be required.”

CONVEYANCE OF LANDS BETWEEN SKAMANIA COUNTY AND THE UNITED STATES

Pub. L. 105-277, div. A, §101(e) [title III, §341], Oct. 21, 1998, 112 Stat. 2681-231, 2681-296, provided that:

“Upon the condition that Skamania County conveys title acceptable to the Secretary of Agriculture to all right, title and interest in lands identified on a map dated September 29, 1998 entitled ‘Skamania County Lands to be Transferred’, such lands being located on Table Mountain lying within the Columbia River Gorge National Scenic Area, there is hereby conveyed to Skamania County, notwithstanding any other provision of law, the Wind River Nursery Site lands and facilities and all interests therein, except for the corridor of the Pacific Crest National Scenic Trail, as depicted

on a map dated September 29, 1998, entitled 'Wind River Conveyance', which is on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.

"The conveyance of lands to Skamania County shall become automatically effective upon a determination by the Secretary that Skamania County has conveyed acceptable title to the United States to the Skamania County lands. Lands conveyed to the United States shall become part of the Gifford Pinchot National Forest and shall have the status of lands acquired under the Act of March 1, 1911, (commonly called the Weeks Act) [see Short Title note set out under section 552 of this title] and shall be managed in accordance with the laws and regulations applicable to the National Forest System."

#### LAND EXCHANGES

Pub. L. 105-83, title III, §336, Nov. 14, 1997, 111 Stat. 1602, provided that: "To facilitate priority land exchanges through which the United States will receive land within the White Salmon Wild and Scenic River boundaries and within the Columbia River Gorge National Scenic Area, the Secretary of Agriculture may, until September 30, 2000, accept title to such lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located, following existing exchange authorities."

#### WIND RIVER NURSERY

Pub. L. 105-83, title III, §340, Nov. 14, 1997, 111 Stat. 1603, provided that:

"(a) The Secretary of Agriculture is authorized and directed to negotiate with Skamania County for the exchange of lands or interests in lands constituting the Wind River Nursery Site within the Gifford Pinchot National Forest, Washington.

"(b) In return for the Nursery Site properties, Skamania County is authorized and directed to negotiate with the Forest Service the conveyance of approximately 120 acres of high biodiversity, special management lands located near Table Mountain within the Columbia River Gorge National Scenic Area, title to which must be acceptable to the Secretary of Agriculture.

"(c) Before this exchange can occur, it must be of equal value and the Secretary and the Skamania County Board of Commissioners must agree on the exact parcels of land to be included in the exchange. An agreement signed by the Secretary of Agriculture and the Skamania County Board of Commissioners describing the properties involved and a certification that the exchange is of equal value must be completed no later than September 30, 1999.

"(d) During this two-year negotiating period, the Wind River Nursery property shall not be conveyed to another party. The Forest Service shall maintain the site in a tenantable condition.

"(e) Except as provided herein, the exchange shall be for equal value in accordance with land exchange authorities applicable to the National Forest System.

"(f) The Secretary is directed to equalize values by not only cash and exchange of lands, easements, reservations, and other interests in lands, but also by full value credit for such services as Skamania County provides to the Gifford Pinchot and Columbia River Gorge National Scenic Area and as the Secretary and Skamania County deem appropriate. The Secretary may accept services in lieu of cash when the Secretary can discern cash value for the services and when the Secretary determines such services would provide direct benefits to lands and resources and users of such lands and resources under the jurisdiction of the Secretary.

"(g) Any cash equalization which Skamania County elects to make may be made up to 50 percent of the fair market value of the Federal property, and such cash equalization may be made in installments over a period

not to exceed 25 years. Payments received as partial consideration shall be deposited into the fund in the Treasury established under the Act of December 4, 1967 [16 U.S.C. 484a], commonly known as the Sisk Act, and shall be available for expenditure as provided in the Act except that the Secretary may not use those funds to purchase lands within Skamania County.

"(h) In defining the Federal estate to be conveyed, the Secretary may require such additional terms and conditions as deemed necessary in connection with assuring equal value and public interest considerations in this exchange including, but not limited to, continued research use of the Wind River Experimental Forest and protection of natural, cultural, and historic resources, existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail.

"(i) This authorization is predicated on Skamania County's Board of Commissioners commitment to give foremost consideration to preservation of the overall integrity of the site and conservation of the educational and research potential of the site, including providing for access to and assurance of the continued administration and operation of forestry research on the adjacent Thornton Munger Research Natural Area.

"(j) The Secretary is further directed to cooperate with Skamania County to address applicable Federal and State environmental laws.

"(k) Notwithstanding the processes involved with the National Environmental Policy Act [of 1969, 42 U.S.C. 4321 et seq.] and the State Environmental Policy Act, should the Secretary of Agriculture and the Skamania County Board of Commissioners fail to reach an agreement on an equal value exchange defined under the terms of this legislation by September 30, 1999, the Wind River Nursery Site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition."

#### § 544h. Interim management

##### (a) Interim guidelines

(1)<sup>1</sup> Within one hundred eighty days after November 17, 1986, the Secretary shall develop interim guidelines for the scenic area outside urban areas to identify land use activities which are inconsistent with sections 544 to 544p of this title and to govern the authority to acquire land without the consent of the owner provided by subsection (b) of this section. The Secretary shall promptly notify the public of adoption of the interim guidelines and transmit the guidelines to each county. Guidelines adopted by the Secretary pursuant to this subsection shall remain in effect for each county until the Secretary has developed guidelines for the special management areas pursuant to section 544f of this title and the land use ordinances prescribed by section 544e of this title are in effect.

##### (b) Interim acquisition authority and injunctive relief

Prior to the concurrence by the Secretary of land use ordinances prescribed by section 544f of this title and the approval by the Commission of land use ordinances prescribed by section 544e of this title, the following authorities are granted:

(1) The Secretary may acquire by condemnation any land or interest which is being used or threatened to be used in a manner inconsistent with the purposes for which the scenic area was established and which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area: *Provided*, That no

<sup>1</sup> So in original. No par. (2) has been enacted.