

and private interests, including nonprofit organizations, to establish such trails.

**(b) Secretary of Housing and Urban Development to encourage metropolitan and other urban areas; administrative and financial assistance in connection with recreation and transportation planning; administration of urban open-space program**

The Secretary of Housing and Urban Development is directed, in administering the program of comprehensive urban planning and assistance under section 701<sup>2</sup> of the Housing Act of 1954, to encourage the planning of recreation trails in connection with the recreation and transportation planning for metropolitan and other urban areas. He is further directed, in administering the urban open-space program under title VII of the Housing Act of 1961 [42 U.S.C. 1500 et seq.], to encourage such recreation trails.

**(c) Secretary of Agriculture to encourage States, local agencies, and private interests**

The Secretary of Agriculture is directed, in accordance with authority vested in him, to encourage States and local agencies and private interests to establish such trails.

**(d) Interim use of railroad rights-of-way**

The Secretary of Transportation, the Chairman of the Surface Transportation Board, and the Secretary of the Interior, in administering the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 801 et seq.], shall encourage State and local agencies and private interests to establish appropriate trails using the provisions of such programs. Consistent with the purposes of that Act, and in furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use, in the case of interim use of any established railroad rights-of-way pursuant to donation, transfer, lease, sale, or otherwise in a manner consistent with this chapter, if such interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes. If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights-of-way, then the Board shall impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this chapter, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use.

**(e) Designation and marking of trails; approval of Secretary of the Interior**

Such trails may be designated and suitably marked as parts of the nationwide system of trails by the States, their political subdivisions, or other appropriate administering agencies

with the approval of the Secretary of the Interior.

(Pub. L. 90-543, §8, Oct. 2, 1968, 82 Stat. 925; Pub. L. 95-625, title V, §551(22), Nov. 10, 1978, 92 Stat. 3516; Pub. L. 98-11, title II, §208, Mar. 28, 1983, 97 Stat. 48; Pub. L. 104-88, title III, §317(1), Dec. 29, 1995, 109 Stat. 949; Pub. L. 113-287, §5(d)(24), Dec. 19, 2014, 128 Stat. 3266.)

REFERENCES IN TEXT

Section 701 of the Housing Act of 1954, referred to in subsec. (b), was classified to section 461 of former Title 40, Public Buildings, Property, and Works, prior to repeal by Pub. L. 97-35, title III, §313(b), Aug. 13, 1981, 95 Stat. 398.

The Housing Act of 1961, referred to in subsec. (b), is Pub. L. 87-70, June 30, 1961, 75 Stat. 149, as amended. Title VII of the Housing Act of 1961 was classified generally to chapter 8C (§1500 et seq.) of Title 42, The Public Health and Welfare, and was omitted from the Code pursuant to section 5316 of Title 42 which terminated authority to make grants or loans under such title VII after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsec. (d), is Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 45, Railroads, and Tables.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-287 substituted “chapter 2003 of title 54” for “the Land and Water Conservation Fund Act”, “division A of subtitle III of title 54” for “the Act of October 15, 1966 (80 Stat. 915), as amended”, and “chapter 2003 of title 54” for “the Act of May 28, 1963 (77 Stat. 49”.

1995—Subsec. (d). Pub. L. 104-88 substituted “Chairman of the Surface Transportation Board” for “Chairman of the Interstate Commerce Commission” and “the Board” for “the Commission”.

1983—Subsecs. (d), (e). Pub. L. 98-11, §208(2), added subsec. (d) and redesignated former subsec. (d) as (e).

1978—Subsec. (a). Pub. L. 95-625 inserted “and historic” after “establishing park, forest, and other recreation” and “administered by States, and recreation”, and directed the Secretary to encourage States to consider in their plans and proposals the needs and opportunities for establishing historic trails.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

**§ 1248. Easements and rights-of-way**

**(a) Authorization; conditions**

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 along any component of the national trails system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions contained in such easements and rights-of-way shall be related to the policy and purposes of this chapter.

**(b) Cooperation of Federal agencies with Secretary of the Interior and Secretary of Agriculture**

The Department of Defense, the Department of Transportation, the Surface Transportation

<sup>2</sup> See References in Text note below.

Board, the Federal Communications Commission, the Secretary of Energy, and other Federal agencies having jurisdiction or control over or information concerning the use, abandonment, or disposition of roadways, utility rights-of-way, or other properties which may be suitable for the purpose of improving or expanding the national trails system shall cooperate with the Secretary of the Interior and the Secretary of Agriculture in order to assure, to the extent practicable, that any such properties having values suitable for trail purposes may be made available for such use.

**(c) Abandoned railroad grants; retention of rights**

Commencing October 4, 1988, any and all right, title, interest, and estate of the United States in all rights-of-way of the type described in section 912 of title 43, shall remain in the United States upon the abandonment or forfeiture of such rights-of-way, or portions thereof, except to the extent that any such right-of-way, or portion thereof, is embraced within a public highway no later than one year after a determination of abandonment or forfeiture, as provided under such section.

**(d) Location, incorporation, and management**

(1) All rights-of-way, or portions thereof, retained by the United States pursuant to subsection (c) which are located within the boundaries of a conservation system unit or a National Forest shall be added to and incorporated within such unit or National Forest and managed in accordance with applicable provisions of law, including this chapter.

(2) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or a National Forest but adjacent to or contiguous with any portion of the public lands shall be managed pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.] and other applicable law, including this section.

(3) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or National Forest which the Secretary of the Interior determines suitable for use as a public recreational trail or other recreational purposes shall be managed by the Secretary for such uses, as well as for such other uses as the Secretary determines to be appropriate pursuant to applicable laws, as long as such uses do not preclude trail use.

**(e) Release and quitclaim; conditions; sale; proceeds**

(1) The Secretary of the Interior is authorized where appropriate to release and quitclaim to a unit of government or to another entity meeting the requirements of this subsection any and all right, title, and interest in the surface estate of any portion of any right-of-way to the extent any such right, title, and interest was retained by the United States pursuant to subsection (c), if such portion is not located within the boundaries of any conservation system unit or National Forest. Such release and quitclaim shall be made only in response to an application therefor by a unit of State or local government

or another entity which the Secretary of the Interior determines to be legally and financially qualified to manage the relevant portion for public recreational purposes. Upon receipt of such an application, the Secretary shall publish a notice concerning such application in a newspaper of general circulation in the area where the relevant portion is located. Such release and quitclaim shall be on the following conditions:

(A) If such unit or entity attempts to sell, convey, or otherwise transfer such right, title, or interest or attempts to permit the use of any part of such portion for any purpose incompatible with its use for public recreation, then any and all right, title, and interest released and quitclaimed by the Secretary pursuant to this subsection shall revert to the United States.

(B) Such unit or entity shall assume full responsibility and hold the United States harmless for any legal liability which might arise with respect to the transfer, possession, use, release, or quitclaim of such right-of-way.

(C) Notwithstanding any other provision of law, the United States shall be under no duty to inspect such portion prior to such release and quitclaim, and shall incur no legal liability with respect to any hazard or any unsafe condition existing on such portion at the time of such release and quitclaim.

(2) The Secretary is authorized to sell any portion of a right-of-way retained by the United States pursuant to subsection (c) located outside the boundaries of a conservation system unit or National Forest if any such portion is—

(A) not adjacent to or contiguous with any portion of the public lands; or

(B) determined by the Secretary, pursuant to the disposal criteria established by section 203 of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1713], to be suitable for sale.

Prior to conducting any such sale, the Secretary shall take appropriate steps to afford a unit of State or local government or any other entity an opportunity to seek to obtain such portion pursuant to paragraph (1) of this subsection.

(3) All proceeds from sales of such retained rights of way shall be deposited into the Treasury of the United States and credited to the Land and Water Conservation Fund as provided in section 200302 of title 54.

(4) The Secretary of the Interior shall annually report to the Congress the total proceeds from sales under paragraph (2) during the preceding fiscal year. Such report shall be included in the President's annual budget submitted to the Congress.

**(f) "Conservation system unit" and "public lands" defined**

As used in this section—

(1) The term "conservation system unit" has the same meaning given such term in the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371 et seq.), except that such term shall also include units outside Alaska.

(2) The term "public lands" has the same meaning given such term in the Federal Land

Policy and Management Act of 1976 [43 U.S.C. 1701 et seq.].

(Pub. L. 90-543, §9, Oct. 2, 1968, 82 Stat. 925; Pub. L. 95-91, title III, §301(b), Aug. 4, 1977, 91 Stat. 578; Pub. L. 100-470, §3, Oct. 4, 1988, 102 Stat. 2281; Pub. L. 104-88, title III, §317(2), Dec. 29, 1995, 109 Stat. 949; Pub. L. 113-287, §5(d)(25), Dec. 19, 2014, 128 Stat. 3266.)

#### REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsecs. (d)(2) and (f)(2), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (f)(1), 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.

#### AMENDMENTS

2014—Subsec. (e)(3). Pub. L. 113-287 substituted “section 200302 of title 54” for “section 4607-5 of this title”.

1995—Subsec. (b). Pub. L. 104-88 substituted “Surface Transportation Board” for “Interstate Commerce Commission”.

1988—Subsecs. (c) to (f). Pub. L. 100-470 added subsecs. (c) to (f).

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

#### TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

“Secretary of Energy” substituted for “Federal Power Commission” in subsec. (b) pursuant to Pub. L. 95-91, §301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

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

#### ABANDONED RAILROAD GRANTS; CONGRESSIONAL FINDINGS

Pub. L. 100-470, §2, Oct. 4, 1988, 102 Stat. 2281, provided that: “Congress hereby finds that—

“(1) State and local governments have a special role to play under the National Trails System Act [16 U.S.C. 1241 et seq.] in acquiring and developing trails for recreation and conservation purposes.

“(2) Many miles of public land rights-of-way have been granted to the railroads by the United States, and much of this mileage could be suitable for trail use at such time as it may be abandoned.

“(3) The United States should retain any residual interest it may have in such public land rights-of-way and relinquish it, where appropriate, in favor of State and local governments or other nonprofit entities for trail purposes.”

#### CONDEMNATION

Pub. L. 100-470, §5, Oct. 4, 1988, 102 Stat. 2283, provided that:

“(a) Nothing in this Act [amending this section and section 1244 of this title and enacting provisions set out as notes under this section and section 1241 of this title] shall be construed as authorizing the Secretary of the Interior to use condemnation proceedings to retain or acquire all or any portion of a right-of-way described in this Act.

“(b) Nothing in this Act shall be construed to expand or diminish existing condemnation authorities contained in the National Trails System Act, as amended [16 U.S.C. 1241 et seq.]”

#### § 1249. Authorization of appropriations

##### (a) Appalachian and Pacific Crest National Scenic Trails

(1) There are hereby authorized to be appropriated for the acquisition of lands or interests in lands not more than \$5,000,000 for the Appalachian National Scenic Trail and not more than \$500,000 for the Pacific Crest National Scenic Trail. From the appropriations authorized for fiscal year 1979 and succeeding fiscal years pursuant to chapter 2003 of title 54, not more than the following amounts may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this chapter: for the Appalachian National Scenic Trail, not to exceed \$30,000,000 for fiscal year 1979, \$30,000,000 for fiscal year 1980, and \$30,000,000 for fiscal year 1981, except that the difference between the foregoing amounts and the actual appropriations in any one fiscal year shall be available for appropriation in subsequent fiscal years.

(2) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program necessary to insure the protection of the Appalachian Trail within three complete fiscal years following March 21, 1978.

##### (b) Land deemed to qualify for funding

For the purposes of Public Law 95-42 (91 Stat. 211), the lands and interests therein acquired pursuant to this section shall be deemed to qualify for funding under the provisions of section 1, clause 2, of said Act.

##### (c) Authorization of appropriations

###### (1) In general

Except as otherwise provided in this chapter, there are authorized to be appropriated such sums as are necessary to implement the