

TITLE 16--CONSERVATION

CHAPTER 27--NATIONAL TRAILS SYSTEM

Sec. 1246. Administration and development of national trails system

- (a) Consultation of Secretary with other agencies; transfer of management responsibilities; selection of rights-of-way; criteria for selection; notice; impact upon established uses

(1)(A) The Secretary charged with the overall administration of a trail pursuant to section 1244(a) of this title shall, in administering and managing the trail, consult with the heads of all other affected State and Federal agencies. Nothing contained in this chapter shall be deemed to transfer among Federal agencies any management responsibilities established under any other law for federally administered lands which are components of the National Trails System. Any transfer of management responsibilities may be carried out between the Secretary of the Interior and the Secretary of Agriculture only as provided under subparagraph (B).

(B) The Secretary charged with the overall administration of any trail pursuant to section 1244(a) of this title may transfer management of any specified trail segment of such trail to the other appropriate Secretary pursuant to a joint memorandum of agreement containing such terms and conditions as the Secretaries consider most appropriate to accomplish the purposes of this chapter. During any period in which management responsibilities for any trail segment are transferred under such an agreement, the management of any such segment shall be subject to the laws, rules, and regulations of the Secretary provided with the management authority under the agreement, except to such extent as the agreement may otherwise expressly provide.

(2) Pursuant to section 1244(a) of this title, the appropriate Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice of the availability of appropriate maps or descriptions in the Federal Register: Provided, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The location and width of such rights-of-way across Federal lands under the jurisdiction of another Federal agency shall be by agreement between the head of that agency and the appropriate Secretary. In selecting rights-of-way for trail purposes, the Secretary shall obtain the advice and assistance of the States, local governments, private organizations, and landowners and land users concerned.

- (b) Relocation of segment of national, scenic or historic, trail right-of-way; determination of necessity with official having jurisdiction; necessity for Act of Congress

After publication of notice of the availability of appropriate maps or descriptions in the Federal Register, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-

of-way, with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (i) such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: Provided, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.

(c) Facilities on national, scenic or historic, trails; permissible activities; use of motorized vehicles; trail markers; establishment of uniform marker; placement of uniform markers; trail interpretation sites

National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts shall be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited and nothing in this chapter shall be construed as authorizing the use of motorized vehicles within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system where they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: Provided, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights: Provided further, That private lands included in the national recreation, national scenic, or national historic trails by cooperative agreement of a landowner shall not preclude such owner from using motorized vehicles on or across such trails or adjacent lands from time to time in accordance with regulations to be established by the appropriate Secretary. Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route. Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail. The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker, including thereon an appropriate and distinctive symbol for each national recreation, national scenic, and national historic trail. Where the trails cross lands administered by Federal agencies such markers shall be erected at appropriate points along the trails and maintained by the Federal agency administering the trail in accordance with standards established by the appropriate Secretary and where the trails cross non-Federal lands, in accordance with written cooperative agreements, the appropriate Secretary shall provide such uniform markers to cooperating agencies and shall require such agencies to erect and maintain them in accordance with the standards established. The appropriate Secretary may also provide for trail interpretation sites, which shall be located at historic sites

along the route of any national scenic or national historic trail, in order to present information to the public about the trail, at the lowest possible cost, with emphasis on the portion of the trail passing through the State in which the site is located. Wherever possible, the sites shall be maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.

(d) Use and acquisition of lands within exterior boundaries of areas included within right-of-way

Within the exterior boundaries of areas under their administration that are included in the right-of-way selected for a national recreation, national scenic, or national historic trail, the heads of Federal agencies may use lands for trail purposes and may acquire lands or interests in lands by written cooperative agreement, donation, purchase with donated or appropriated funds or exchange.

(e) Right-of-way lands outside exterior boundaries of federally administered areas; cooperative agreements or acquisition; failure to agree or acquire; agreement or acquisition by Secretary concerned; right of first refusal for original owner upon disposal

Where the lands included in a national scenic or national historic trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or (2) to acquire such lands or interests therein to be utilized as segments of the national scenic or national historic trail: Provided, That if the State or local governments fail to enter into such written cooperative agreements or to acquire such lands or interests therein after notice of the selection of the right-of-way is published, the appropriate Secretary may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire private lands or interests therein by donation, purchase with donated or appropriated funds or exchange in accordance with the provisions of subsection (f) of this section: Provided further, That the appropriate Secretary may acquire lands or interests therein from local governments or governmental corporations with the consent of such entities. The lands involved in such rights-of-way should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired: Provided, That if the Secretary charged with the administration of such trail permanently relocates the right-of-way and disposes of all title or interest in the land, the original owner, or his heirs or assigns, shall be offered, by notice given at the former owner's last known address, the right of first refusal at the fair market price.

(f) Exchange of property within the right-of-way by Secretary of the Interior; property subject to exchange; equalization of value of property; exchange of national forest lands by Secretary of Agriculture; tracts lying outside trail acquisition area

(1) The Secretary of the Interior, in the exercise of his exchange authority, may accept title to any non-Federal property within the right-of-way and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction which is located in the State wherein such property is located and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment

of cash to the grantor or to the Secretary as the circumstances require. The Secretary of Agriculture, in the exercise of his exchange authority, may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(2) In acquiring lands or interests therein for a National Scenic or Historic Trail, the appropriate Secretary may, with consent of a landowner, acquire whole tracts notwithstanding that parts of such tracts may lie outside the area of trail acquisition. In furtherance of the purposes of this chapter, lands so acquired outside the area of trail acquisition may be exchanged for any non-Federal lands or interests therein within the trail right-of-way, or disposed of in accordance with such procedures or regulations as the appropriate Secretary shall prescribe, including: (i) provisions for conveyance of such acquired lands or interests therein at not less than fair market value to the highest bidder, and (ii) provisions for allowing the last owners of record a right to purchase said acquired lands or interests therein upon payment or agreement to pay an amount equal to the highest bid price. For lands designated for exchange or disposal, the appropriate Secretary may convey these lands with any reservations or covenants deemed desirable to further the purposes of this chapter. The proceeds from any disposal shall be credited to the appropriation bearing the costs of land acquisition for the affected trail.

(g) Condemnation proceedings to acquire private lands; limitations; availability of funds for acquisition of lands or interests therein; acquisition of high potential, route segments or historic sites

The appropriate Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to provide passage across such lands: Provided, That condemnation proceedings may not be utilized to acquire fee title or lesser interests to more than an average of one hundred and twenty-five acres per mile. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to appropriations from other sources, be available to Federal departments for the acquisition of lands or interests in lands for the purposes of this chapter. For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites. Except for designated protected components of the trail, no land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 303 of title 49 unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

(h) Development and maintenance of national, scenic or historic, trails; cooperation with States over portions located outside of federally administered areas; cooperative agreements; participation of volunteers; reservation of right-of-way for trails in conveyances by Secretary of the Interior

(1) The Secretary charged with the administration of a national recreation, national scenic, or national historic trail shall provide for the development and maintenance of such trails within federally administered areas and shall cooperate with and encourage the States to operate, develop, and maintain portions of such trails which are located outside the boundaries of federally administered areas. When deemed to

be in the public interest, such Secretary may enter written cooperative agreements with the States or their political subdivisions, landowners, private organizations, or individuals to operate, develop, and maintain any portion of such a trail either within or outside a federally administered area. Such agreements may include provisions for limited financial assistance to encourage participation in the acquisition, protection, operation, development, or maintenance of such trails, provisions providing volunteer in the park or volunteer in the forest status (in accordance with the Volunteers in the Parks Act of 1969 [16 U.S.C. 18g et seq.] and the Volunteers in the Forests Act of 1972 [16 U.S.C. 558a et seq.]) to individuals, private organizations, or landowners participating in such activities, or provisions of both types. The appropriate Secretary shall also initiate consultations with affected States and their political subdivisions to encourage--

(A) the development and implementation by such entities of appropriate measures to protect private landowners from trespass resulting from trail use and from unreasonable personal liability and property damage caused by trail use, and

(B) the development and implementation by such entities of provisions for land practices, compatible with the purposes of this chapter,

for property within or adjacent to trail rights-of-way. After consulting with States and their political subdivisions under the preceding sentence, the Secretary may provide assistance to such entities under appropriate cooperative agreements in the manner provided by this subsection.

(2) Whenever the Secretary of the Interior makes any conveyance of land under any of the public land laws, he may reserve a right-of-way for trails to the extent he deems necessary to carry out the purposes of this chapter.

(i) Regulations; issuance; concurrence and consultation; revision; publication; violations; penalties; utilization of national park or national forest authorities

The appropriate Secretary, with the concurrence of the heads of any other Federal agencies administering lands through which a national recreation, national scenic, or national historic trail passes, and after consultation with the States, local governments, and organizations concerned, may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good conduct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary and any person who violates such regulations shall be guilty of a misdemeanor, and may be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or by both such fine and imprisonment. The Secretary responsible for the administration of any segment of any component of the National Trails System (as determined in a manner consistent with subsection (a)(1) of this section) may also utilize authorities related to units of the national park system or the national forest system, as the case may be, in carrying out his administrative responsibilities for such component.

(j) Types of trail use allowed

Potential trail uses allowed on designated components of the national trails system may include, but are not limited to, the following: bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, and surface water

and underwater activities. Vehicles which may be permitted on certain trails may include, but need not be limited to, motorcycles, bicycles, four-wheel drive or all-terrain off-road vehicles. In addition, trail access for handicapped individuals may be provided. The provisions of this subsection shall not supersede any other provisions of this chapter or other Federal laws, or any State or local laws.

(k) Donations or other conveyances of qualified real property interests

For the conservation purpose of preserving or enhancing the recreational, scenic, natural, or historical values of components of the national trails system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of title 26, including, but not limited to, right-of-way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96-541.

(Pub. L. 90-543, Sec. 7, Oct. 2, 1968, 82 Stat. 922; Pub. L. 95-248, Sec. 1(3), (4), Mar. 21, 1978, 92 Stat. 160; Pub. L. 95-625, title V, Sec. 551(17)-(21), Nov. 10, 1978, 92 Stat. 3515, 3516; Pub. L. 96-87, title IV, Sec. 401(m)(2), (3), Oct. 12, 1979, 93 Stat. 666; Pub. L. 98-11, title II, Sec. 207, Mar. 28, 1983, 97 Stat. 45.)

References in Text

The Volunteers in the Parks Act of 1969, referred to in subsec. (h)(1), is Pub. L. 91-357, July 29, 1970, 84 Stat. 472, as amended, which is classified generally to subchapter II (Sec. 18g et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 18g of this title and Tables.

The Volunteers in the Forests Act of 1972, referred to in subsec. (h)(1), probably means the Volunteers in the National Forests Act of 1972, Pub. L. 92-300, May 18, 1972, 86 Stat. 147, as amended, which is classified generally to section 558a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 558a of this title and Tables.

The public land laws, referred to in subsec. (h)(2), are classified generally to Title 43, Public Lands.

Section 6 of Public Law 96-541, referred to in subsec. (k), is section 6 of Pub. L. 96-541, Dec. 17, 1980, 94 Stat. 3206, which amended section 170 of Title 26, Internal Revenue Code, and enacted and amended provisions set out as notes under section 170 of Title 26.

Codification

In subsec. (g), ``section 303 of title 49'' substituted for ``section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f))'' on authority of Pub. L. 97-449, Sec. 6(b), Jan. 12, 1983, 96 Stat. 2443, the first section of which enacted subtitle I (Sec. 101 et seq.) of Title 49, Transportation.

Amendments

1983--Subsec. (a). Pub. L. 98-11, Sec. 207(a), designated existing provisions as par. (2), added par. (1), and in par. (2) substituted ``shall publish notice of the availability of appropriate maps or

descriptions in the Federal Register'' for ``shall publish notice thereof in the Federal Register, together with appropriate maps and descriptions''.

Subsec. (b). Pub. L. 98-11, Sec. 207(b), inserted ``of the availability of appropriate maps or descriptions'' after ``After publication of notice'', and struck out ``together with appropriate maps and descriptions,'' after ``Federal Register,''

Subsec. (c). Pub. L. 98-11, Sec. 207(c), inserted provision that the appropriate Secretary may also provide for trail interpretation sites, which shall be located at historic sites along the route of any national scenic or national historic trail, in order to present information to the public about the trail, at the lowest possible cost, with emphasis on the portion of the trail passing through the State in which the site is located, and that, whenever possible, the sites be maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.

Subsec. (e). Pub. L. 98-11, Sec. 207(d), in first sentence, substituted ``subsection (f) of this section'' for ``subsection (g) of this section'', and inserted a further proviso authorizing the appropriate Secretary to acquire lands or interests therein from local governments or governmental corporations with the consent of such entities.

Subsec. (f). Pub. L. 98-11, Sec. 207(e), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 98-11, Sec. 207(f), substituted ``Except for designated protected components of the trail, no land or site located'' for ``No land or site located'' in last sentence.

Subsec. (h). Pub. L. 98-11, Sec. 207(g), designated the first of two sentences of existing provisions as par. (1) and the last sentence as par. (2); and in par. (1), as so designated, substituted ``and maintain any portion of such a trail either within'' for ``and maintain any portion of a national scenic or national historic trail either within'' and inserted third, fourth, and fifth sentences making provision for the inclusion in written cooperative agreements provisions for limited financial assistance to encourage participation in acquisition, protection, operation, development, or maintenance of trails and for volunteer in the park or volunteer in the forest status, for the initiation of consultations with affected States and their political subdivisions, and for the giving of assistance after consultation under appropriate cooperative agreements.

Subsec. (i). Pub. L. 98-11, Sec. 207(h), added direction that the Secretary responsible for the administration of any segment of any component of the National Trails System also utilize authorities related to units of the national park system or the national forest system in carrying out his administrative responsibilities for such component.

Subsecs. (j), (k). Pub. L. 98-11, Sec. 207(i), added subsecs. (j) and (k).

1979--Subsecs. (c), (g). Pub. L. 96-87 made technical amendments to section 551(18) and (21) of Pub. L. 95-625 the net result of which expanded the provisions which had been added to subsecs. (c) and (g) of this section in 1978 by section 551(18) and (21) of Pub. L. 95-625. See 1978 Amendments note below.

1978--Subsec. (a). Pub. L. 95-625, Sec. 551(17), substituted ``national scenic and national historic trails'' for ``National Scenic Trails'' in first sentence.

Subsec. (b). Pub. L. 95-625, Sec. 551(17), substituted ``scenic or national historic'' for ``scenic'' in two places.

Subsec. (c). Pub. L. 95-625, Sec. 551(17), (18), as amended Pub. L. 96-87, Sec. 401(m)(2), substituted in first sentence ``scenic or national historic'' for ``scenic'', in second proviso ``recreation, national scenic, or national historic'' for ``recreation or scenic'' and in fifth sentence ``recreation, national scenic, and national historic'' for ``recreation and scenic'', and inserted following fourth sentence provisions relating to trail markers and provisions requiring the

Secretary to allow other uses along the historic trails and the Continental Divide National Scenic Trail which will not substantially interfere with the nature and purposes of the trail and which, at the time of designation, were allowed by administrative regulation, including the use of motor vehicles.

Subsec. (d). Pub. L. 95-625, Sec. 551(17), substituted ``recreation, national scenic, or national historic'' for ``recreation or scenic''.

Pub. L. 95-248, Sec. 1(3), struck out proviso relating to acreage limitation of acquisition.

Subsec. (e). Pub. L. 95-625, Sec. 551(17), (19), inserted ``or national historic'' after ``scenic'' in two places and struck out from first proviso ``within two years'' before ``after notice of the selection of the right-of-way''.

Subsec. (g). Pub. L. 95-625, Sec. 551(20), (21), as amended Pub. L. 96-87, Sec. 401(m)(3), struck out second proviso ``: Provided further, That condemnation is prohibited with respect to all acquisition of lands or interest in lands for the purposes of the Pacific Crest Trail'' after ``connecting trail right-of-way'' and inserted provisions that direct Federal acquisition for trail purposes be limited to high potential route segments or high potential historic sites and that no land or site located along a designated national historic trail or along the Continental Divide Scenic Trail be subject to the provisions of section 1653(f) of title 49 unless that land be deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

Pub. L. 95-248, Sec. 1(4), substituted ``an average of one hundred and twenty-five acres per mile'' for ``twenty-five acres in any one mile'', and struck out limitation on exercise of authority with respect to a connecting trail right-of-way.

Subsec. (h). Pub. L. 95-625, Sec. 551(17), substituted ``recreation, national scenic, or national historic'' for ``recreation or scenic'' in first sentence, and inserted ``or national historic'' after ``scenic'' in second sentence.

Subsec. (i). Pub. L. 95-625, Sec. 551(17), substituted ``recreation, national scenic, or national historic'' for ``recreation or scenic''.

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, Secs. 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.