

[As Amended Through P.L. 115-35]

TITLE 54—NATIONAL PARK SERVICE AND RELATED PROGRAMS

SUBTITLE II—OUTDOOR RECREATION PROGRAMS

CHAPTER 2003—LAND AND WATER CONSERVATION FUND

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§ 200301. Definitions

In this chapter:

(1) **FUND** The term “Fund” means the Land and Water Conservation Fund established under section 200302 of this title.

(2) **STATE** The term “State” means a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3171.)

§ 200302. Establishment of Land and Water Conservation Fund

(a) **ESTABLISHMENT** There is established in the Treasury the Land and Water Conservation Fund.

(b) **DEPOSITS** During the period ending September 30, 2018, there shall be deposited in the Fund the following revenues and collections:

(1) All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of the provisions of law set forth in section 572(a) or 574(a) to (c) of title 40 or under authority of any appropriation Act that appropriates an amount, to be derived from proceeds from the trans-

fer of excess property and the disposal of surplus property, for necessary expenses, not otherwise provided for, incident to the utilization and disposal of excess and surplus property) received from any disposal of surplus real property and related personal property under chapter 5 of title 40, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in this chapter shall affect existing laws or regulations concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions.

(2) The amounts provided for in section 200310 of this title.

(c) AUTHORIZATION OF APPROPRIATIONS

(1) IN GENERAL In addition to the sum of the revenues and collections estimated by the Secretary to be deposited in the Fund pursuant to this section, there are authorized to be appropriated annually to the Fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the Fund not less than \$900,000,000 for each fiscal year through September 30, 2018.

(2) RECEIPTS UNDER OUTER CONTINENTAL SHELF LANDS ACT To the extent that amounts appropriated under paragraph (1) are not sufficient to make the total annual income of the Fund equivalent to the amounts provided in paragraph (1), an amount sufficient to cover the remainder shall be credited to the Fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(3) AVAILABILITY OF DEPOSITS Notwithstanding section 200303 of this title, money deposited in the Fund under this subsection shall remain in the Fund until appropriated by Congress to carry out this chapter.

(Pub. L. 113-287, § 73, Dec. 19, 2014, 128 Stat. 3171; Pub. L. 114-113, div. O, title VIII, § 801(a), Dec. 18, 2015, 129 Stat. 3030.)

§ 200303. Appropriations for expenditure of Fund amounts

Amounts deposited in the Fund shall be available for expenditure for the purposes of this chapter only when appropriated for those purposes. The appropriations may be made without fiscal-year limitation. Amounts made available for obligation or expenditure from the Fund may be obligated or expended only as provided in this chapter.

(Pub. L. 113-287, § 73, Dec. 19, 2014, 128 Stat. 3172.)

§ 200304. Statement of estimated requirements

There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the Fund. Not less than 40 percent of such appropriations shall be available for Federal purposes.

(Pub. L. 113–287, § 73, Dec. 19, 2014, 128 Stat. 3172.)

§ 200305. Financial assistance to States

(a) **AUTHORITY OF SECRETARY TO MAKE PAYMENTS** The Secretary may provide financial assistance to the States from amounts available for State purposes. Payments may be made to the States by the Secretary as provided in this section, subject to such terms and conditions as the Secretary considers appropriate and in the public interest to carry out the purposes of this chapter, for outdoor recreation:

- (1) Planning.
- (2) Acquisition of land, water, or interests in land or water.
- (3) Development.

(b) **APPORTIONMENT AMONG STATES** Amounts appropriated and available for State purposes for each fiscal year shall be apportioned among the States by the Secretary, whose determination shall be final, in accordance with the following formula:

(1) Forty percent of the 1st \$225,000,000; 30 percent of the next \$275,000,000; and 20 percent of all additional appropriations shall be apportioned equally among the States.

(2) At any time, the remaining appropriation shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in the Secretary's judgment will best accomplish the purposes of this chapter. The determination of need shall include consideration of—

(A) the proportion that the population of each State bears to the total population of the United States;

(B) the use of outdoor recreation resources of each State by persons from outside the State; and

(C) the Federal resources and programs in each State.

(3) The total allocation to a State under paragraphs (1) and (2) shall not exceed 10 percent of the total amount allocated to all of the States in any one year.

(4) The Secretary shall notify each State of its apportionments. The amounts shall be available for payment to the State for planning, acquisition, or development projects as prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which the notification is given and for 2 fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) without regard to the 10 percent limitation to an individual State specified in this subsection.

(5) For the purposes of paragraph (1), the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands shall be deemed to be one State, and shall receive shares of the apportionment in proportion to their populations.

(c) **MATCHING REQUIREMENTS** Payments to any State shall cover not more than 50 percent of the cost of planning, acquisition, or development projects that are undertaken by the State. The remaining share of the cost shall be borne by the State in a manner and with funds or services as shall be satisfactory to the Secretary.

(d) **COMPREHENSIVE STATE PLAN**

(1) REQUIRED FOR CONSIDERATION OF FINANCIAL ASSISTANCE A comprehensive statewide outdoor recreation plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. The plan shall be adequate if, in the judgment of the Secretary, it encompasses and will promote the purposes of this chapter. No plan shall be approved unless the chief executive official of the State certifies that ample opportunity for public participation in plan development and revision has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, which criteria shall constitute the basis for the certification by the chief executive official. The plan shall contain—

(A) the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for purposes of this chapter;

(B) an evaluation of the demand for and supply of outdoor recreation resources and facilities in the State;

(C) a program for the implementation of the plan; and

(D) other necessary information, as determined by the Secretary.

(2) FACTORS TO BE CONSIDERED The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional, and local plans. Where there exists or is in preparation for any particular State a comprehensive plan financed in part with funds supplied by the Secretary of Housing and Urban Development, any statewide outdoor recreation plan prepared for purposes of this part shall be based on the same population, growth, and other pertinent factors as are used in formulating plans financed by the Secretary of Housing and Urban Development.

(3) PROVISION OF ASSISTANCE WHEN PLAN NOT OTHERWISE AVAILABLE OR TO MAINTAIN PLAN The Secretary may provide financial assistance to any State for projects for the preparation of a comprehensive statewide outdoor recreation plan when the plan is not otherwise available or for the maintenance of the plan.

(4) WETLANDS A comprehensive statewide outdoor recreation plan shall specifically address wetlands within the State as an important outdoor recreation resource as a prerequisite to approval, except that a revised comprehensive statewide outdoor recreation plan shall not be required by the Secretary, if a State submits, and the Secretary, acting through the Director, approves, as a part of and as an addendum to the existing comprehensive statewide outdoor recreation plan, a wetlands priority plan developed in consultation with the State agency with responsibility for fish and wildlife resources and consistent with the national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3921) or, if the national plan has not been completed, consistent with the provisions of that section.

(e) PROJECTS FOR LAND AND WATER ACQUISITION AND DEVELOPMENT OF BASIC OUTDOOR RECREATION FACILITIES

(1) IN GENERAL In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the types of projects described in paragraphs (2) and (3), or combinations of those projects, if the projects are in accordance with the State comprehensive plan.

(2) ACQUISITION OF LAND OR WATER

(A) IN GENERAL Under paragraph (1), the Secretary may provide financial assistance for a project for the acquisition of land, water, or an interest in land or water, or a wetland area or an interest in a wetland area, as identified in the wetlands provisions of the comprehensive plan (other than land, water, or an interest in land or water acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition.

(B) RETENTION OF RIGHT OF USE AND OCCUPANCY When a State provides that the owner of a single-family residence may, at the owner's option, elect to retain a right of use and occupancy for not less than 6 months after the date of acquisition of the residence and the owner elects to retain such a right—

(i) the owner shall be deemed to have waived any benefits under sections 203 to 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623 to 4626); and

(ii) for the purposes of those sections the owner shall not be deemed to be a displaced person as defined in section 101 of that Act (42 U.S.C. 4601).

(3) DEVELOPMENT OF BASIC OUTDOOR RECREATION FACILITIES Under paragraph (1), the Secretary may provide financial assistance for a project for development of basic outdoor recreation facilities to serve the general public, including the development of Federal land under lease to States for terms of 25 years or more. No assistance shall be available under this chapter to enclose or shelter a facility normally used for an outdoor recreation activity, but the Secretary may permit local funding, not to exceed 10 percent of the total amount allocated to a State in any one year, to be used for construction of a sheltered facility for a swimming pool or ice skating rink in an area where the Secretary determines that the construction is justified by the severity of climatic conditions and the increased public use made possible by the construction.

(f) PAYMENTS

(1) CRITERIA FOR MAKING PAYMENTS The Secretary may make a payment to a State only for a planning, acquisition, or development project that is approved by the Secretary. The Secretary shall not make a payment for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance shall be given under any other Federal program or activity for or on account of any project with respect to which the assistance has been given or promised under this chapter. The Secretary may make payments from time to time in keeping with the rate of progress toward the

satisfactory completion of a project. The approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of all of the projects, and to operate and maintain by acceptable standards, at State expense, the properties or facilities acquired or developed for public outdoor recreation use.

(2) PAYMENT RECIPIENTS Payments for all projects shall be made by the Secretary to the chief executive official of the State or to a State official or agency designated by the chief executive official or by State law having authority and responsibility to accept and to administer funds paid under this section for approved projects. If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

(3) CONVERSION TO OTHER THAN PUBLIC OUTDOOR RECREATION USE No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation use. The Secretary shall approve a conversion only if the Secretary finds it to be in accordance with the then-existing comprehensive statewide outdoor recreation plan and only on such conditions as the Secretary considers necessary to ensure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location. Wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan and proposed to be acquired as suitable replacement property within the same State that is otherwise acceptable to the Secretary, acting through the Director, shall be deemed to be of reasonably equivalent usefulness with the property proposed for conversion.

(4) REPORTS AND ACCOUNTING PROCEDURES No payment shall be made to any State until the State has agreed to—

(A) provide such reports to the Secretary in such form and containing such information as may be reasonably necessary to enable the Secretary to perform the Secretary's duties under this chapter; and

(B) provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting for Federal funds paid to the State under this chapter.

(g) RECORDS A recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including records that fully disclose—

(1) the amount and the disposition by the recipient of the proceeds of the assistance;

(2) the total cost of the project or undertaking in connection with which the assistance is given or used; and

(3) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(h) ACCESS TO RECORDS The Secretary, and the Comptroller General, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any records of the recipient that are pertinent to assistance received under this chapter.

(i) PROHIBITION OF DISCRIMINATION With respect to property acquired or developed with assistance from the Fund, discrimination on the basis of residence, including preferential reservation or membership systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

(j) COORDINATION WITH FEDERAL AGENCIES To ensure consistency in policies and actions under this chapter with other related Federal programs and activities and to ensure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities—

(1) the President may issue such regulations with respect thereto as the President considers desirable; and

(2) the assistance may be provided only in accordance with the regulations.

(k) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME

(1) AVAILABILITY AND PURPOSE OF FUNDS In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated out of the Violent Crime Reduction Trust Fund, the Secretary may provide financial assistance to the States, not to exceed \$15,000,000, for projects or combinations thereof for the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

(A) increase lighting within or adjacent to public parks and recreation areas;

(B) provide emergency telephone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

(C) increase security personnel within or adjacent to public parks and recreation areas; and

(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

(2) ELIGIBILITY In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection shall depend on a showing of need. In providing funds under this subsection, the Secretary shall give priority to projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

(3) FEDERAL SHARE Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by a State for the purposes described in this subsection.

§ 200306. Allocation of Fund amounts for Federal purposes

(a) ALLOWABLE PURPOSES AND SUBPURPOSES

(1) IN GENERAL Amounts appropriated from the Fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President for the purposes and subpurposes stated in this subsection.

(2) ACQUISITION OF LAND, WATER, OR AN INTEREST IN LAND OR WATER

(A) SYSTEM UNITS AND RECREATION AREAS ADMINISTERED FOR RECREATION PURPOSES Amounts shall be allotted for the acquisition of land, water, or an interest in land or water within the exterior boundary of—

(i) a System unit authorized or established; and

(ii) an area authorized to be administered by the Secretary for outdoor recreation purposes.

(B) NATIONAL FOREST SYSTEM

(i) IN GENERAL Amounts shall be allotted for the acquisition of land, water, or an interest in land or water within inholdings within—

(I) wilderness areas of the National Forest System; and

(II) other areas of national forests as the boundaries of those forests existed on January 1, 1965, or purchase units approved by the National Forest Reservation Commission subsequent to January 1, 1965, all of which other areas are primarily of value for outdoor recreation purposes.

(ii) ADJACENT LAND Land outside but adjacent to an existing national forest boundary, not to exceed 3,000 acres in the case of any one forest, that would comprise an integral part of a forest recreational management area may also be acquired with amounts appropriated from the Fund.

(iii) LIMITATION Except for areas specifically authorized by Act of Congress, not more than 15 percent of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

(C) ENDANGERED SPECIES AND THREATENED SPECIES; FISH AND WILDLIFE REFUGE AREAS; NATIONAL WILDLIFE REFUGE SYSTEM Amounts shall be allotted for the acquisition of land, water, or an interest in land or water for—

(i) endangered species and threatened species authorized under section 5(a) of the Endangered Species Act of 1973 (16 U.S.C. 1534(a));

(ii) areas authorized by section 2 of the Refuge Recreation Act (16 U.S.C. 460k-1);

(iii) national wildlife refuge areas under section 7(a)(4) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(a)(4)) and wetlands acquired under section 304 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3922); and

(iv) any area authorized for the National Wildlife Refuge System by specific Acts.

(3) PAYMENT AS OFFSET OF CAPITAL COSTS Amounts shall be allotted for payment into miscellaneous receipts of the Treasury as a partial offset for capital costs, if any, of Federal water development projects authorized to be constructed by or pursuant to an Act of Congress that are allocated to public recreation and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

(4) AVAILABILITY OF APPROPRIATIONS Appropriations allotted for the acquisition of land, water, or an interest in land or water as set forth under subparagraphs (A) and (B) of paragraph (2) shall be available for those acquisitions notwithstanding any statutory ceiling on the appropriations contained in any other provision of law enacted prior to January 4, 1977, or, in the case of national recreation areas, prior to January 15, 1979, except that for any such area expenditures shall not exceed a statutory ceiling during any one fiscal year by 10 percent of the ceiling or \$1,000,000, whichever is greater.

(b) ACQUISITION RESTRICTIONS Appropriations from the Fund pursuant to this section shall not be used for acquisition unless the acquisition is otherwise authorized by law. Appropriations from the Fund may be used for preacquisition work where authorization is imminent and where substantial monetary savings could be realized.

(Pub. L. 113–287, §73, Dec. 19, 2014, 128 Stat. 3177.)

§ 200307. Availability of Fund amounts for publicity purposes

(a) IN GENERAL Amounts derived from the sources listed in section 200302 of this title shall not be available for publicity purposes.

(b) EXCEPTION FOR TEMPORARY SIGNING In a case where significant acquisition or development is initiated, appropriate standardized temporary signing shall be located on or near the affected site, to the extent feasible, so as to indicate the action taken is a product of funding made available through the Fund. The signing may indicate the percentage amounts and dollar amounts financed by Federal and non-Federal funds, and that the source of the funding includes amounts derived from Outer Continental Shelf receipts. The Secretary shall prescribe standards and guidelines for the usage of the signing to ensure consistency of design and application.

(Pub. L. 113–287, §73, Dec. 19, 2014, 128 Stat. 3179.)

§ 200308. Contracts for acquisition of land and water

Not more than \$30,000,000 of the amount authorized to be appropriated from the Fund by section 200303 of this title may be obligated by contract during each fiscal year for the acquisition of land, water, or interest in land or water within areas specified in

section 200306(a)(2) of this title. The contract may be executed by the head of the department concerned, within limitations prescribed by the Secretary. The contract shall be a contractual obligation of the United States and shall be liquidated with money appropriated from the Fund specifically for liquidation of that contract obligation. No contract may be entered into for the acquisition of property pursuant to this section unless the acquisition is otherwise authorized by Federal law.

(Pub. L. 113-287, § 3, Dec. 19, 2014, 128 Stat. 3179.)

§ 200309. Contracts for options to acquire land and water in System

The Secretary may enter into contracts for options to acquire land, water, or interests in land or water within the exterior boundaries of any area the acquisition of which is authorized by law for inclusion in the System. The minimum period of any such option shall be 2 years, and any sums expended for the purchase of an option shall be credited to the purchase price of the area. Not more than \$500,000 of the sum authorized to be appropriated from the Fund by section 200303 of this title may be expended by the Secretary in any one fiscal year for the options.

(Pub. L. 113-287, § 3, Dec. 19, 2014, 128 Stat. 3179.)

§ 200310. Transfers to and from Fund

(a) **MOTORBOAT FUEL TAXES** There shall be set aside in the Fund the amounts specified in section 9503(c)(3)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(3)(B)).

(b) **REFUNDS OF TAXES** There shall be paid from time to time from the Fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to—

(1) the amounts paid before October 1, 2023, under section 6421 of the Internal Revenue Code of 1986 (26 U.S.C. 6421) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, 2022; and

(2) 80 percent of the floor stocks refunds made before October 1, 2023, under section 6412(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 6412(a)(1)) with respect to gasoline to be used in motorboats.

(Pub. L. 113-287, § 3, Dec. 19, 2014, 128 Stat. 3179; Pub. L. 114-94, div. C, title XXXI, § 31102(e)(2)(B), Dec. 4, 2015, 129 Stat. 1728.)
