

TITLE 16 - CONSERVATION
CHAPTER 2 - NATIONAL FORESTS
SUBCHAPTER I - ESTABLISHMENT AND ADMINISTRATION

§ 471i. Pinelands National Reserve

(a) Congressional findings

The Congress finds that—

- (1) the Pinelands area in New Jersey, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;
- (2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;
- (3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;
- (4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;
- (5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and
- (6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

(b) Purposes

The purposes of this section are—

- (1) to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area;
- (2) to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area consistent with the findings of this section;
- (3) to provide, during the development of this comprehensive plan, Federal financial assistance for the acquisition of lands in the Pinelands area that have critical ecological values which are in immediate danger of being adversely affected or destroyed;
- (4) to encourage and assist the State and its units of local government in developing a governmental mechanism to implement this comprehensive plan, and to provide Federal financial assistance for the acquisition of lands consistent with the comprehensive plan;
- (5) to encourage adequate coordination of all government programs affecting the land and water resources of the Pinelands area.

(c) Pinelands National Reserve and Federal Project Review Area; establishment; map, availability

There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre area generally depicted on the map entitled “Pinelands National Reserve Boundary Map” numbered NPS/80,011A and dated September 1978. Within the Pinelands National Reserve,

there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d) of this section, and in locations throughout the Pinelands National Reserve as determined by the planning entity.

(d) State planning entity for development of comprehensive management plan; membership; representation of interests; assistance and grants to State

Within thirty days after November 10, 1978, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall request the Governor of the State of New Jersey to establish, within ninety days of such request, a planning entity to develop a comprehensive management plan for the Pinelands National Reserve. In order to carry out the purposes of this section, such planning entity shall be composed of fifteen members to be appointed as follows: one member appointed by the Secretary; one member from each of the seven counties in the Pinelands National Reserve to be appointed by the respective governing bodies of each county; and seven members to be appointed by the Governor. The membership of the planning entity shall include residents of the Pinelands National Reserve who represent economic activities such as agriculture in the area, as well as residents of New Jersey who represent conservation interests. The Secretary shall provide technical assistance and grants to the State for the development of the plan or revisions thereof: Provided, That such grants shall not exceed 75 percent of the cost of developing the plan, shall be made only upon application of the Governor, on behalf of the planning entity, and shall be subject to such other conditions as the Secretary may deem appropriate to assure State and local interim protection of the area.

(e) Planning entity consultations; public hearings

During the development of the management plan, the planning entity shall:

- (1) consult with appropriate officials of any local government or State or Federal agency which has jurisdiction over lands and waters within the area;
- (2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection (f)(2)(B) of this section;
- (3) consult with interested professional, scientific and citizen organizations;
- (4) consult with a citizens advisory committee which may be established by the Governor; and
- (5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

(f) Comprehensive management plan; terms and provisions; resource assessment; boundary map, delineations; land use map and policy statement; coordination and consistency, public use, and financial components; programs; water implementation plan

The comprehensive management plan for the Pinelands National Reserve shall include, but need not be limited to—

- (1) A resource assessment which:
 - (A) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to
 - (i) ground and surface water supply and quality;
 - (ii) natural hazards, including fire;
 - (iii) endangered, unique and unusual plants and animals and biotic communities;
 - (iv) ecological factors relating to the protection and enhancement of blueberry and cranberry production and other agricultural activity;
 - (v) air quality; and
 - (vi) other appropriate considerations affecting the ecological integrity of the area; and

- (B)** includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources.
- (2)** A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:
 - (A)** major areas within the boundary which are of critical ecological importance;
 - (B)** major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and
 - (C)** areas of scenic, open space, cultural and recreational significance.
- (3)** A land use capability map and a comprehensive statement of policies for land use management of the area which:
 - (A)** consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;
 - (B)** include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and
 - (C)** recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.
- (4)** A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water and structures managed by governmental or nongovernmental entities in the public interest within the area may be integrated into the management plan.
- (5)** A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.
- (6)** A financial component, together with a cash flow timetable, which:
 - (A)** details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and
 - (B)** details the sources of revenue for covering such costs, including, but not limited to, grants, donations and loans from local, State, and Federal departments and agencies, and from the private sector.
- (7)** A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve.
- (8)** A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section.
- (9)** In conjunction with existing State programs and planning processes, a plan to implement the provisions of the Clean Water Act [33 U.S.C. 1251 et seq.] and the Safe Drinking Water Act [42 U.S.C. 300f et seq.] which pertain to the surface and ground waters of the Pinelands National Reserve.

(g) Comprehensive management plan and revisions; approval by Secretary; submission to Congress; approval considerations; disapproval and revision recommendations, notification; resubmission and consideration; Federal assistance, termination; modifications and revisions; reimbursement

(1) The State of New Jersey, through the planning entity, shall adopt and submit to the Secretary a comprehensive management plan within eighteen months after the date that funds are first provided for its preparation under subsection (d) of this section. In the event the State fails to submit the plan within such time period, the Secretary may obtain reimbursement or offset from the State of all Federal funds previously granted under this section. The Secretary shall, within ninety days after the date the plan is submitted to him, either approve or disapprove the plan. Should the Secretary fail to act on the proposed plan within ninety days, the plan shall be regarded as approved. Upon approval, the Secretary shall submit the plan to the Congress for a period of ninety days prior to implementation.

(2) In determining whether or not to approve the management plan, the Secretary shall consider whether:

(A) the planning entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation and review of the plan, and whether such review and comment thereon were considered in the plan or revision as presented to him;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will insure effective implementation of the State and local aspects of the plan;

(C) provision is made for the participation of a Federal representative in the implementation program;

(D) the plan requires the exercise of police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

(E) the plan, if implemented, would adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and, consistent with such protection, provide adequate and appropriate outdoor recreational opportunities and economic activities within the area;

(F) the plan provides for the Governor of the State of New Jersey to exercise effective and continuing oversight over its implementation; and

(G) after consultation with the Secretary of Defense, the national defense mission of the military installations within, contiguous or adjacent to the Pinelands National Reserve has been adequately provided for.

(3) If the Secretary disapproves the management plan or a revision thereof, he shall, within sixty days after the date of such disapproval, advise the planning entity in writing of the reasons therefor, together with his recommendations for revision. The State of New Jersey, through the planning entity shall, within one hundred and twenty days after receipt by the planning entity of notification of such disapproval, revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within sixty days after the date it is submitted to him. Should the Secretary fail to act on a proposed revision within sixty days, the revision shall be considered as approved.

(4) The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section.

(5) In the event that the planning entity fails to obtain approval of the plan by the Secretary within thirty-six months after the date funds are first provided under subsection (d) of this section for development of the plan, the Secretary shall terminate all Federal assistance for and participation in the development of such plan, and may obtain reimbursement or offset from the State of New Jersey of all Federal funds previously granted under this section.

(6) The Secretary shall provide technical assistance for and monitor at periodic intervals the implementation of the approved management plan. A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan. The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section. Any jurisdiction that implements changes to the approved management plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants.

(h) Grants for State acquisition of property; Secretary's acquisition and administration of property; conveyance by Secretary, terms and conditions; State reimbursement; grant authorization and applications; limitation

(1) (A) During the development of the management plan, the Secretary is authorized to make grants to the State of New Jersey for the acquisition of lands and waters or interests therein within the Pinelands National Reserve that he determines, in consultation with the State planning entity, have critical ecological values which are in immediate danger of being adversely affected or destroyed.

(B) The grants authorized by subsection (h)(1)(A) of this section together with the grants made under paragraph (4) of this subsection, shall

(i) be made in a manner consistent with the requirements of the Land and Water Conservation Fund Act [16 U.S.C. 4601-4 et seq.];

(ii) not exceed 75 percent of the total cost of all property acquired by the State pursuant to this subsection;

(iii) be supplemental to any other Federal financial assistance for any other program; and

(iv) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

(2) In the event the State elects not to make acquisitions as authorized under subsection (h)(1) of this section, the Secretary, during the development of the management plan, is authorized to acquire such lands, waters or interests therein by donation, purchase with donated or appropriated funds, exchange, or otherwise, and to administer such property under the laws generally applicable to units of the National Park System or National Wildlife Refuge System in a manner to carry out the purposes of this section.

(3) After his approval of the management plan, the Secretary

(A) is authorized to convey property acquired pursuant to subsection (h)(2) of this section to State or local authorities in accordance with the management plan, under such terms and conditions as he may deem appropriate, which shall include

(i) a requirement that where the Secretary transfers land acquired with appropriated funds, the State or local government shall repay not less than 25 percent of the cost of such lands to the Secretary under such terms and conditions as he may deem appropriate, and

(ii) a retention of a right of reversion of title to the United States, and

(B) shall accept from the State those lands acquired pursuant to subsection (h)(1) of this section, which are identified in the management plan as being appropriate for Federal ownership and management: Provided, That the Secretary shall reimburse to the State such sums as are necessary to

(i) cover 100 percent of the original cost of acquisition as to each parcel of land so transferred and

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) of this section not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

(4) Upon approval of the management plan, the Secretary is authorized to make grants for the acquisition within the Pinelands National Reserve of lands and waters or interests therein in a manner consistent with the management plan. All applications for such grants shall be made within ten years from the date of implementation of the management plan.

(i) Applications for Federal construction assistance; review by planning entity; notifications; commencement of review process

During the development of the management plan for the Pinelands National Reserve, all applications for Federal assistance under programs covered by Part I of OMB Circular A-95 and direct Federal actions covered by Part II of OMB Circular A-95 within the Federal Project Review Area generally depicted on the map referred to in subsection (c) of this section which involve the construction of housing, industrial parks, highways, or sewage or water treatment facilities shall be reviewed by the planning entity, upon receipt from the New Jersey State A-95 Clearinghouse (hereinafter referred to as the Clearinghouse). If the planning entity finds that such application or proposed action would have no adverse impact on the resources and ecological values of the Federal Project Review Area, the planning entity shall so notify the Clearinghouse. If the planning entity does not so find, Congress authorizes the planning entity to notify the Clearinghouse and other affected parties that such application or proposed action shall not proceed pending further review, and the planning entity shall forward such application or notice of proposed action to the Secretary. Any such application or proposed action which the Secretary determines would be significantly adverse to the purposes of this section shall not proceed while the management plan is being developed. The review process established under this subsection shall begin upon the appropriation of funds under subsection (k) of this section.

(j) Federal action pursuant to Federal court or agency orders related to public health or safety, national security or defense, or environmental values unaffected

Nothing in this section shall be construed to limit or prohibit any Federal action ordered by a court of competent jurisdiction or directed by a Federal agency as essential for the protection of public health or safety, for national security or defense, or for the maintenance of environmental values within the Pinelands National Reserve or the Federal Project Review Area.

(k) Authorization of appropriations; sources for appropriations; acquisitions consistent with management plan

(1) There is authorized to be appropriated not to exceed \$26 million to carry out the provisions of this section. Not to exceed \$3 million shall be available for planning: Provided, That any funds not used for planning shall be available for land acquisition; Provided further, That \$23,000,000 shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended [43 U.S.C. 1331 et seq.], which would otherwise be credited to miscellaneous receipts.

(2) In addition to other funds authorized pursuant to this subsection, there are hereby authorized to be appropriated not to exceed \$14,500,000 for land acquisition, the Federal share of which may not exceed 50 percent of the total cost. Land acquisition pursuant to this subsection shall be carried out in accordance with the requirements of subsection (h) of this section insofar as such requirements are not inconsistent with this paragraph. Such acquisitions shall also be carried out in a manner consistent with the management plan and shall include—

(A) lands located within the preservation area of the National Reserve which is designated in the management plan;

(B) lands that are within the areas protected by the management plan and that are threatened by adverse development or have critical ecological values; or

(C) lands that have limited practical use because of their location in the Reserve and that are held by landowners who both own less than 50 acres in the Reserve and have exhausted existing remedies to secure relief.

Additional funds contributed by the State to the Pinelands Development Bank after enactment of this Act, not to exceed \$5,000,000, may be counted as part of the State share of land acquisition funds.

(I) Pinelands interpretative and educational program; Interior Department study and recommendations

(1) Study and recommendations for interpretative and educational program

For the purpose of enhancing public understanding, awareness, and appreciation with respect to the natural and cultural resources of the Pine Barrens area of New Jersey, the Secretary shall, within 9 months after October 13, 1988, study and recommend appropriate initiatives to provide an educational and interpretative program for the Reserve. The Secretary shall conduct such study in consultation with the planning entity and the appropriate departments and agencies of the State of New Jersey.

(2) Items included

The study and recommendations required by this subsection shall include, but not be limited to each of the following:

(A) Interpretative and informational materials, exhibits, films, lectures, and other devices and educational methods.

(B) A plan to provide for educational and interpretative programs for the Reserve, considering among other things the improvement of existing facilities and interpretative programs in the Reserve, including the possible use of existing facilities such as Whitesbog, Batsto, Double Trouble State Park and Stockton State College.

(C) The use and enhancement of existing fire towers in the Reserve to serve as observation platforms.

(D) The appropriate role for departments and agencies of the State of New Jersey and the Federal Government in implementing the program.

(3) Study of Development Credit Bank and Development Credit System

The Secretary is authorized and directed to study the State of New Jersey Pinelands Development Credit Bank and Pinelands Development Credit System, and to submit to the Congress within 9 months after October 13, 1988, such recommendations as the Secretary determines appropriate for improvements of the operation of the State Pinelands Development Credit Bank and the overall Pinelands Development Credit Program.

(4) Study of Municipal Council

The Secretary shall study the Pinelands Municipal Council, and submit to the Congress within 9 months after October 13, 1988, such recommendations as the Secretary determines appropriate for improvements of the operation of the council.

(5) Contracts and agreements

The Secretary may enter into such contracts and agreements with the State of New Jersey and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. For purposes of this subsection, there is authorized to be appropriated not more than \$500,000 to prepare and complete the study pursuant to paragraph (1) and \$3,000,000 to implement the recommendations of such study upon its approval by the Congress, the Federal share of which may not exceed 75 percent of the total cost.

(Pub. L. 95-625, title V, § 502, Nov. 10, 1978, 92 Stat. 3492; Pub. L. 100-486, Oct. 13, 1988, 102 Stat. 2429.)

References in Text

The Clean Water Act, referred to in subsec. (f)(9), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (f)(9), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Land and Water Conservation Fund Act, referred to in subsec. (h)(1)(B), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 4601-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601-4 of this title and Tables.

The Outer Continental Shelf Lands Act, as amended, referred to in subsec. (k)(1), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

Enactment of this Act, referred to in subsec. (k)(2), probably means date of enactment of Pub. L. 100-486, which enacted subsec. (k)(2) of this section and which was approved Oct. 13, 1988.

Amendments

1988—Subsec. (k). Pub. L. 100-486, § 2, designated existing provisions as par. (1) and added par. (2).

Subsec. (l). Pub. L. 100-486, § 1, added subsec. (l).