

COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT¹
(as amended through November 2003)

16 U.S.C. Sec. 2. Columbia River Gorge National Scenic Area; definitions

§ 544 As used in sections 544 to 544p of this title, the term –

- (a) "adversely affect" or "adversely affecting" means, except as used in section 544m of this title, a reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination – of which is based on -
 - (1) the context of a proposed action;
 - (2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;
 - (3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and
 - (4) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant affects to an insignificant level;
- (b) "agricultural lands" means lands designated as agricultural lands pursuant to section 544d of this title;
- (c) "Commission" means the Columbia River Gorge Commission established pursuant to section 544c of this title;
- (d) "counties" means Hood River, Multnomah, and Wasco Counties, Oregon; and Clark, Klickitat, and Skamania Counties, Washington;
- (e) "Dodson/Warrendale Special Purchase Unit" means the Dodson/Warrendale Special Purchase Unit established pursuant to section 544b of this title;
- (f) "forest lands" means lands designated as forest lands pursuant to section 544d of this title;
- (g) "Indian tribes" means the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation;
- (h) "interim guidelines" means any interim guidelines developed by the Secretary pursuant to section 544h of this title, and any amendment, revision, or variance;
- (i) "land use ordinance" or "ordinance" means any ordinance adopted by a county or by the Commission pursuant to sections 544 to 544p of this title, and includes any amendment to, revision of, or variance from such ordinance;
- (j) "major development actions" means any of the following:
 - (1) subdivisions, partitions and short plat proposals;
 - (2) any permit for siting or construction outside urban areas of multifamily residential, industrial or commercial facilities, except such facilities as are included in the recreation assessment;
 - (3) the exploration, development and production of mineral resources unless such exploration, development or production can be conducted without disturbing the surface of any land within the boundaries of a special management area or is

¹ Note: This compilation was downloaded from <http://uscode.house.gov/>. This compilation does not include any of the codification notes except for footnotes and legislative source notes. While the Columbia River Gorge Commission believes this is an accurate compilation as of the date stated above, persons relying on this compilation do so at their own risk. All persons are advised to seek the assistance of an attorney.

- for sand, gravel and crushed rock used for the construction, maintenance or reconstruction of roads within the special management areas used for the production of forest products; and
- (4) permits for siting or construction within a special management area of any residence or other related major structure on any parcel of land less than forty acres in size;
 - (k) "management plan" means the scenic area management plan adopted pursuant to section 544d of this title;
 - (l) "open spaces" means unimproved lands not designated as agricultural lands or forest lands pursuant to section 544d of this title and designated as open space pursuant to section 544d of this title. Open spaces include –
 - (1) scenic, cultural, and historic areas;
 - (2) fish and wildlife habitat;
 - (3) lands which support plant species that are endemic to the scenic area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;
 - (4) ecologically and scientifically significant natural areas;
 - (5) outstanding scenic views and sites;
 - (6) water areas and wetlands;
 - (7) archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;
 - (8) potential and existing recreation resources; and
 - (9) Federal and State wild, scenic, and recreation waterways;
 - (m) "recreation assessment" means the recreation assessment adopted pursuant to section 544d of this title;
 - (n) "residential development" means the permitting for siting or construction of any residence or other related major structure;
 - (o) "scenic area" means the Columbia River Gorge National Scenic Area established pursuant to section 544b of this title;
 - (p) "Secretary" means the Secretary of Agriculture;
 - (q) "special management areas" means areas within the scenic area established pursuant to section 544b of this title;
 - (r) "States" means the States of Oregon and Washington; and
 - (s) "urban areas" means those areas within the scenic area identified as urban areas on the map referred to in section 544b(e) of this title or within the boundaries of an urban area as revised pursuant to section 544b(f) of this title.

(Pub. L. 99-663, Sec. 2, Nov. 17, 1986, 100 Stat. 4274; Pub. L. 103-435, Sec. 17(b), Nov. 2, 1994, 108 Stat. 4573.)

§ 544a Sec. 3. Purposes

The purposes of sections 544 to 544p of this title are –

- (1) to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and
- (2) to protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1)

(Pub. L. 99-663, Sec. 3, Nov. 17, 1986, 100 Stat. 4276.)

§ 544b Sec. 4. Establishment of scenic area

- (a) National scenic area
 - (1) There is hereby established the Columbia River Gorge National Scenic Area.
 - (2) Boundaries. –
 - (A) In general. – Except as provided in subparagraph (B), the boundaries of the scenic area shall be generally depicted on the map entitled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 sheets 1 and 2, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.
 - (B) Exclusions. – The scenic area shall not include the approximately 29 acres of land owned by the Port of Camas-Washougal in the South 1/2 of Section 16, Township 1 North, Range 4 East, and the North 1/2 of Section 21, Township 1 North, Range 4 East, Willamete² Meridian, Clark County, Washington, that consists of -
 - (i) the approximately 19 acres of Port land acquired from the Corps of Engineers under the Second Supplemental Appropriations Act, 1984 (Public Law 98-396); and
 - (ii) the approximately 10 acres of adjacent Port land to the west of the land described in clause (i)
- (b) Special management areas
 - (1) The following areas within the boundaries of the scenic area are hereby designated "Special Management Areas": Gates of the Columbia River Gorge; Wind Mountain; Burdoin Mountain; and Rowena.
 - (2) The boundaries of the special management areas designated by paragraph (1) –
 - (A) shall be generally depicted on the map entitled "Special Management Areas, Columbia River Gorge National Scenic Area", numbered SMA-002 sheets 1 through 17, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service; and
 - (B) shall include all islands within the boundaries of the scenic area.
 - (3) Modification of boundaries. - The boundaries of the special management areas are modified as depicted on a map dated September 20, 2000, which shall be on file and available for public inspection in the office of the Chief of the Forest Service in Washington, District of Columbia, and copies shall be available in the office of the Commission, and the headquarters of the scenic area.
- (c) Revision of special management area boundaries. The Secretary, in consultation with the Commission, may make minor revisions in the boundaries of special management areas after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Natural Resources of the United States House of Representatives. Such notice shall be published and submitted at least sixty days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.
- (d) Dodson/Warrendale Special Purchase Unit
 - (1) There is hereby established the Dodson/Warrendale Special Purchase Unit.

² So in original. Probably should be "Willamette".

- (2) The boundaries of the Dodson/Warrendale Special Purchase Unit shall be generally depicted on the map entitled "Dodson/Warrendale Special Purchase Unit, Columbia River Gorge National Scenic Area", numbered SPU-003 sheet 1, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.
- (e) Urban areas
 - (1) The following cities and towns are hereby designated as "Urban Areas": Cascade Locks, Hood River, Mosier, and The Dalles, Oregon; and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram, Washington.
 - (2) The boundaries of urban areas shall be generally depicted on the map entitled, "Urban Areas, Columbia River Gorge National Scenic Area", numbered UA-004 sheets 1 through 11, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service. The boundaries of urban areas designated in this subsection may be revised pursuant to the provisions of this section.
- (f) Revision of urban area boundaries
 - (1) Upon application of a county and in consultation with the Secretary, the Commission may make minor revisions to the boundaries of any urban area identified in subsection (e) of this section. A majority vote of two-thirds of the members of the Commission, including a majority of the members appointed from each State, shall be required to approve any revision of urban area boundaries.
 - (2) The Commission may revise the boundaries of an urban area only if it finds that -
 - (A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;
 - (B) revision of urban area boundaries would be consistent with the standards established in section 544d of this title and the purposes of sections 544 to 544p of this title;
 - (C) revision of urban area boundaries would result in maximum efficiency of land uses within and on the fringe of existing urban areas; and
 - (D) revision of urban area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

(Pub. L. 99-663, Sec. 4, Nov. 17, 1986, 100 Stat. 4276; Pub. L. 103-437, Sec. 6(d)(34), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 105-277, div. A, Sec. 101(e) (title III, Sec. 354(a)), Oct. 21, 1998, 112 Stat. 2681-231, 2681-303; Pub. L. 106-31, title V, Sec. 5004(3), May 21, 1999, 113 Stat. 110; Pub. L. 106-291, title III, Sec. 346(d), Oct. 11, 2000, 114 Stat. 1000.)

§ 544c Sec. 5. Columbia River Gorge Commission

- (a) Establishment and membership of Commission
 - (1) To achieve the purposes of sections 544 to 544p of this title and to facilitate cooperation among the States of Oregon and Washington, and with the United States of America, the consent of Congress is given for an agreement described in sections 544 to 544p of this title pursuant to which, within one year after November 17, 1986 -
 - (A) the States of Oregon and Washington shall establish by way of an interstate agreement a regional agency known as the Columbia River Gorge Commission, and shall incorporate sections 544 to 544p of this title

by specific reference in such agreement. The Commission shall carry out its functions and responsibilities in accordance with the provisions of the interstate agreement and of sections 544 to 544p of this title and shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law;

- (B) the States of Oregon and Washington shall provide to the Commission, State agencies, and the counties under State law the authority to carry out their respective functions and responsibilities in accordance with the provisions of paragraph (1)(A) of this subsection; and
- (C) the States of Oregon and Washington shall appoint members of the Commission as provided in clauses (i) through (iii), subject to applicable State law: Provided, That the Governor of either State may extend the time for appointment of Commission members ninety days to provide more time for the States and counties to make such appointments.

Membership of the Commission shall be as follows:

- (i) six members, comprised of one resident from each of the following counties: Hood River, Multnomah, and Wasco Counties, Oregon, and Clark, Klickitat, and Skamania Counties, Washington, to be appointed by the governing body of each of the respective counties: Provided, That in the event the governing body of a county fails to make such appointment, the Governor of the State in which the county is located shall appoint such member;
 - (ii) three members who reside in the State of Oregon, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Oregon;
 - (iii) three members who reside in the State of Washington, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Washington; and
 - (iv) one ex officio, nonvoting member who shall be an employee of the Forest Service, to be appointed by the Secretary.
- (2) The agreement shall take effect and the Commission may exercise its authorities pursuant to the agreement upon the appointment of four initial members from each State, subject to applicable State law, and the date of such an agreement shall be the date of establishment of the Commission. Such agreement is hereby consented to by the Congress.
 - (3) Either State or any county may fill any vacancy occurring prior to the expiration of the term of any member originally appointed by that State or county. Each member appointed to the Commission shall serve a term of four years, except that, with respect to members initially appointed pursuant to paragraph (1)(C)(i), each Governor shall designate one member to serve for a term of five years and one to serve for a term of six years, and one member from each State initially appointed pursuant to paragraph (1)(C)(ii) and (iii) shall be designated by the Governor to serve a term of five years, and one to serve a term of six years. Neither the Governors nor the governing bodies of any of the counties may appoint Federal, State, or local elected or appointed officials to the Commission.

- (4) A majority of the members of the Commission shall constitute a quorum. The members of the Commission shall select from among themselves a Chairman by majority vote of the members appointed from each State.
 - (5) Except for the ex-officio member appointed pursuant to paragraph (1)(C)(iv), the members and officers and employees of the Commission shall not be officers or employees of the United States for any purpose. The Commission shall appoint, fix compensation for, and assign and delegate duties to such officers and employees as the Commission deems necessary to fulfill its functions under sections 544 to 544p of this title. The compensation of Commission members shall be fixed by State law. The compensation of Commission members, officers, and employees and the expenses of the Commission shall be paid from funds provided to the Commission by the States.
- (b) Applicable law. For the purposes of providing a uniform system of laws, which, in addition to sections 544 to 544p of this title, are applicable to the Commission, the Commission shall adopt regulations relating to administrative procedure, the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Commission, advisory committees, and disclosure of information consistent with the more restrictive statutory provisions of either State. Regulations applicable to financial disclosure under this subsection shall be applied to members of the Commission without regard to the duration of their service on the Commission or the amount of compensation received for such service. No contract, obligation, or other action of the Commission shall be an obligation of the United States or an obligation secured by the full faith and credit of the United States.
 - (c) Assistance to Commission. Upon the request of the Commission, the Secretary and other Federal agencies are authorized to provide information, personnel, property, and services on a reimbursable basis, and the Secretary is authorized to provide technical assistance on a nonreimbursable basis, to the Commission to assist it in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.
 - (d) Advisory committees. The Commission shall establish voluntary technical and citizen advisory committees to assist the Commission in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 5, Nov. 17, 1986, 100 Stat. 4277.)

§ 544d Sec. 6. Scenic area management plan

- (a) Studies. Within one year after the date the Commission is established, it shall, in cooperation with the Secretary, complete the following studies for use in preparing the management plan:
 - (1) Resource inventory. The Commission shall complete a resource inventory. The resource inventory shall –
 - (A) document all existing land uses, natural features and limitations, scenic, natural, cultural, archaeological and recreation and economic resources and activities: Provided, That the location of any Indian burial grounds, village sites, and other areas of archaeological or religious significance shall not be made public information and such information shall be used for administrative purposes only; and

- (B) incorporate without change the resource inventory developed by the Secretary pursuant to section 544f of this title for the special management areas.
- (2) Economic opportunity study. The Commission shall complete a study to identify opportunities to enhance the economies of communities in the scenic area in a manner consistent with the purposes of sections 544 to 544p of this title.
- (3) Recreation assessment. The Commission shall complete an assessment of recreation resources and opportunities for enhancement of these resources. The recreation assessment shall –
 - (A) designate the location and specify the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;
 - (B) identify areas within the scenic area that are suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities and river access areas; and
 - (C) subject to the treaty and other rights of Indian tribes, designate areas to provide increased access for recreation purposes to the Columbia River and its tributaries; and
 - (D) incorporate without change the recreation assessment developed by the Secretary pursuant to section 544f of this title for the special management areas;
- (b) Land use designations. Within two years after the Commission is established, it shall develop land use designations for the use of non-Federal lands within the scenic area. The land use designations shall –
 - (1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section, and consistent with the standards established in subsection (d) of this section;
 - (2) agricultural products or the sustenance of livestock as agricultural lands;
 - (3) designate lands used or suitable for the production of forest products as forest lands;
 - (4) designate lands suitable for the protection and enhancement of open spaces;
 - (5) designate areas in the scenic area outside special management areas used or suitable for commercial development: Provided, That such designation shall encourage, but not require, commercial development to take place in urban areas and shall take into account the physical characteristics of the areas in question and their geographic proximity to transportation, commercial, and industrial facilities and other amenities;
 - (6) designate areas used or suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities; and
 - (7) incorporate without change the designation of urban areas established in section 544b(e) of this title.
- (c) Adoption of management plan. Within three years after the date the Commission is established, it shall adopt a management plan for the scenic area. The Commission

shall adopt the management plan by a majority vote of the members appointed, including at least three members from each State. The management plan shall -

- (1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section;
 - (2) include land use designations developed pursuant to subsection (b) of this section;
 - (3) be consistent with the standards established in subsection (d) of this section;
 - (4) incorporate without change the management direction for the use of Federal lands within and the land use designations for the special management areas adopted by the Secretary pursuant to section 544f of this title; and
 - (5) include guidelines for the adoption of land use ordinances for lands within the scenic area. The guidelines –
 - (A) shall incorporate without change the guidelines for the development of special management area land use ordinances developed by the Secretary pursuant to section 544f of this title; and
 - (B) shall not apply to urban areas designated in section 544b(e) of this title.
- (d) Standards for management plan. The management plan and all land use ordinances and interim guidelines adopted pursuant to sections 544 to 544p of this title shall include provisions to -
- (1) protect and enhance agricultural lands for agricultural uses and to allow, but not require, conversion of agricultural lands to open space, recreation development or forest lands;
 - (2) protect and enhance forest lands for forest uses and to allow, but not require, conversion of forest lands to agricultural lands, recreation development or open spaces;
 - (3) protect and enhance open spaces;
 - (4) protect and enhance public and private recreation resources and educational and interpretive facilities and opportunities, in accordance with the recreation assessment adopted pursuant to subsection (a) of this section;
 - (5) prohibit major development actions in special management areas, except for partitions or short plats which the Secretary determines are desirable to facilitate land acquisitions pursuant to sections 544 to 544p of this title;
 - (6) prohibit industrial development in the scenic area outside urban areas;
 - (7) require that commercial development outside urban areas take place without adversely affecting the scenic, cultural, recreation, or natural resources of the scenic area;
 - (8) require that residential development outside urban areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area; and
 - (9) require that the exploration, development and production of mineral resources, and the reclamation of lands thereafter, take place without adversely affecting the scenic, cultural, recreation and natural resources of the scenic area.
- (e) Agency consultation and public involvement. The Secretary and the Commission shall exercise their responsibilities pursuant to sections 544 to 544p of this title in consultation with Federal, State, and local governments having jurisdiction within the scenic area or expertise pertaining to its administration and with Indian tribes. The Secretary and the Commission shall conduct public hearings and solicit public comment prior to final adoption of the management plan and the Commission shall

conduct public hearings and solicit public comment prior to final adoption of land use ordinances. The Commission and the appropriate county shall promptly notify the Secretary, the States, local governments and Indian tribes of all proposed major development actions and residential development in the scenic area.

- (f) Concurrence of management plan
 - (1) Review by Secretary. Upon adoption of the management plan, the Commission shall promptly submit the plan to the Secretary for review. If the Secretary agrees with the Commission that the management plan is consistent with the standards established in this section and the purposes of sections 544 to 544p of this title, the Secretary shall concur to that effect. Should the Secretary fail to act on the proposed plan within ninety days, the Secretary shall be deemed to have concurred on the management plan.
 - (2) Denial of concurrence. If concurrence is denied, the Secretary shall state the reasons for finding the plan is inconsistent with the standards established in this section or the purposes of sections 544 to 544p of this title, and shall submit to the Commission suggested modifications to the management plan to make it consistent with such standards and the purposes of sections 544 to 544p of this title.
 - (3) Commission reconsideration. Within one hundred and twenty days after receipt of notification of non-concurrence, the Commission shall -
 - (A) revise and resubmit the plan to the Secretary; or
 - (B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a management plan consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.
- (g) Revision of plan. No sooner than five years after adoption of the management plan, but at least every ten years, the Commission shall review the management plan to determine whether it should be revised. The Commission shall submit any revised management plan to the Secretary for review and concurrence, in accordance with the provisions of this section for adoption of the management plan.
- (h) Amendment of plan. If the Commission determines at any time that conditions within the scenic area have significantly changed, it may amend the management plan. The Commission shall submit amendments to the management plan to the Secretary for review, in accordance with the provisions of this section for adoption of the management plan.

(Pub. L. 99-663, Sec. 6, Nov. 17, 1986, 100 Stat. 4279.)

§ 544e Sec. 7. Administration of scenic area

- (a) Management of scenic area. The non-Federal lands within the scenic area shall be administered by the Commission in accordance with the management plan and sections 544 to 544p of this title.
- (b) Adoption of scenic area land use ordinances
 - (1) Within sixty days of initial receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit such letter or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (c) of this section.

- (2) Within two hundred and seventy days of receipt of the management plan, each county shall adopt a land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a land use ordinance shall promptly submit the ordinance to the Commission.
- (3) Approval by commission.
 - (A) Within ninety days after receipt of a land use ordinance, the Commission, by majority vote including at least three members from each State, shall approve the ordinance unless it determines the ordinance is inconsistent with the management plan. Should the Commission fail to act within ninety days, the ordinance shall be deemed to be approved.
 - (B) If approval is denied, the Commission shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the county suggested modifications to the ordinance to make it consistent with the management plan.
 - (C) Each county shall have ninety days after it receives recommendations from the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for approval. The Commission shall have sixty days to approve or disapprove the resubmitted ordinance. Any resubmitted ordinance shall become effective upon approval. Should the Commission disapprove the resubmitted ordinance, it shall promptly resubmit the ordinance for reconsideration. Should the Commission fail to act within sixty days, the ordinance shall be deemed to be approved.
- (c) Commission land use ordinances
 - (1) Within ninety days after making a determination that a county has failed to comply with the provisions of this section, the Commission shall make and publish a land use ordinance setting standard for the use of non-Federal lands in such county within the boundaries of the national scenic area, excluding urban areas identified in section 544b(e) of this title. The ordinance shall have the object of assuring that the use of such non-Federal lands is consistent with the management plan. The ordinance may differ amongst the several parcels of land within the boundaries of the scenic area. The ordinance may from time to time be amended by the Commission.
 - (2) Subsequent Compliance. – In the event the Commission has promulgated regulations pursuant to this section, a county may thereafter upon written notice to the Commission elect to adopt a land use ordinance, in which event it shall comply with the provisions of this section for adoption of a land use ordinance. Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.
- (d) Construction of facilities. The Secretary is hereby authorized to design, construct, operate and maintain such facilities as are included in the recreation assessment.
(Pub. L. 99-663, Sec. 7, Nov. 17, 1986, 100 Stat. 4282.)

§ 544f Sec. 8. Administration of special management areas

- (a) Administration of Federal lands
 - (1)³ The Secretary shall administer Federal lands within the special management areas in accordance with sections 544 to 544p of this title and other laws, rules and regulations applicable to the national forest system. In addition, the construction of roads and the management, utilization and harvest of timber on Federal lands within the special management areas also shall be subject to Forest Service visual resource management guidelines. The Secretary shall utilize lands acquired through exchange in calculating the allowable sales quantity on the Gifford Pinchot and Mount Hood National Forests.
- (b) Withdrawal of Federal lands. Subject to valid existing rights, all Federal lands located in the special management areas are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral and geothermal leasing: Provided, That the Secretary may allow the exploration, development, or production of sand, gravel, and crushed rock as necessary to construct, maintain, or reconstruct roads in the special management areas.
- (c) Resource inventory. The Secretary shall complete a resource inventory for the special management areas consistent with the process and substance of the inventory prescribed by section 544d(a)(1) of this title.
- (d) Recreation assessment. Within two years after November 17, 1986, the Secretary shall complete an assessment of recreation resources in the special management areas and opportunities for enhancement of these resources. The recreation assessment shall –
 - (1) identify areas within the special management areas suitable for designation by the Commission pursuant to section 544d of this title for the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;
 - (2) identify areas within the special management areas suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities, and river access areas; and
 - (3) subject to the treaty or other rights of Indian tribes, identify areas with the special management areas suitable for use to increase access for recreation purposes to the Columbia River and its tributaries.
- (e) Land use designations. Within three years after November 17, 1986, the Secretary shall develop land use designations for the special management areas. The land use designations shall be –(1) based on the resource inventory prepared by the Secretary pursuant to this section; and (2) consistent with the standards established in section 544d of this title.
- (f) Guidelines for land use ordinances
 - (1)⁴ Within three years after November 17, 1986, the Secretary shall, in consultation with the Commission, develop guidelines to assure that non-Federal lands within the special management areas are managed consistent with the standards

³ So in original. No par. (2) has been enacted.

⁴ So in original. No par. (2) has been enacted.

in section 544d of this title and the purposes of sections 544 to 544p of this title. The Secretary shall promptly transmit the guidelines to the Commission for inclusion in the management plan. The guidelines shall require that management, utilization, and disposal of timber, and exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest forest products on non-Federal lands within the special management areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area.

(h)⁵ Adoption of special management area land use ordinances

- (1) Within sixty days of receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit a letter as provided in this subsection, or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (1) of this section.
- (2) Within two hundred seventy days of receipt of the management plan, each county shall adopt a special management area land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a special management area land use ordinance shall promptly submit the adopted ordinance to the Commission.

(i) Review by Commission

- (1) The Commission shall review the special management area land use ordinance received from each county, and within ninety days after receipt shall make a tentative determination as to whether the ordinance is consistent with the management plan. If the Commission makes a tentative determination that the land use ordinance is consistent with the management plan, the Commission shall send the ordinance to the Secretary for concurrence.
- (2) If the Commission makes a tentative determination that the land use ordinance is inconsistent with the management plan, the Commission shall state the reasons for the determination and shall return the ordinance to the appropriate county with suggested modifications required for consistency with the management plan.
- (3) Each county shall have ninety days after it is notified by the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for tentative determination of consistency. The Commission shall have sixty days to make a tentative consistency determination on the resubmitted ordinance. If found consistent, the land use ordinance shall be transmitted by the Commission to the Secretary for concurrence that the ordinance is consistent with the management plan. If the Commission finds the resubmitted ordinance inconsistent, the Commission shall adopt an ordinance pursuant to subsection (1) of this section.

(j) Concurrence by Secretary

- (1) Upon receipt of a special management area land use ordinance from the Commission, the Secretary shall notify the public of such receipt and shall,

⁵ So in original. No subsec. (g) has been enacted.

within ninety days thereafter, concur with the Commission's tentative determination of consistency with the management plan unless the Secretary determines the ordinance is inconsistent. Any ordinance submitted to the Secretary shall become effective upon notification of concurrence. Should the Secretary fail to act within ninety days, the Secretary shall be deemed to have concurred with the Commission's tentative consistency determination.

- (2) Denial of Concurrence. - If concurrence is denied, the Secretary shall state the reasons therefor and shall submit to the Commission suggested modifications to the land use ordinances to make them consistent with the management plan and the purposes of sections 544 to 544p of this title.
- (k) Commission reconsideration. Upon receipt of notification of nonconcurrence by the Secretary, the Commission shall resubmit the land use ordinance to the appropriate county. Such county shall within ninety days, reconsider and revise the ordinance and resubmit the ordinance to the Commission for reconsideration in accordance with the provisions of this section. Should the Secretary again deny concurrence, the Commission shall either prepare a land use ordinance for such county pursuant to subsection (l) of this section or, by a two-thirds vote of the membership of the Commission including a majority of the members appointed from each State, determine that the ordinance is consistent with the management plan.
- (l) Commission ordinances
- (1) Within ninety days after making a determination that a county has failed to comply with the provisions of subsection (h) of this section, the Commission shall make and publish an ordinance setting standards for the use of non-Federal lands of such county within the boundaries of the special management areas. The ordinances shall have the object of assuring that the use of such lands is consistent with the management plan. The ordinances may differ amongst the several parcels of land within the boundaries of the special management areas. The ordinances may from time to time be amended by the Commission.
 - (2) The Commission shall promptly submit the ordinance to the Secretary. The Secretary shall, within ninety days after receipt of the ordinance from the Commission, concur with the tentative determination that the land use ordinance is consistent with the management plan unless a determination of inconsistency is made. Any ordinance submitted to the Secretary shall become effective upon concurrence. Should the Secretary fail to concur within ninety days, the land use ordinance shall be effective.
 - (3) If concurrence is denied, the Secretary shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the Commission suggested modifications to the ordinance to make it consistent with the plan.
 - (4) The Commission shall have ninety days after it receives recommendations from the Secretary to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Secretary for concurrence. The Secretary shall have sixty days to concur with the resubmitted ordinance. Any resubmitted ordinance shall become effective upon concurrence by the Secretary. Should the Secretary deny concurrence for the resubmitted ordinance, the Secretary shall state the reasons therefor and shall promptly

resubmit the ordinance for reconsideration. Should the Secretary fail to concur within sixty days, the ordinance shall be deemed effective.

- (5) Within one hundred twenty days after receipt of notification of non-concurrence, the Commission shall –
 - (A) revise and resubmit the land use ordinance to the Secretary; or
 - (B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a land use ordinance consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(m) Subsequent compliance. In the event the Commission has adopted an ordinance pursuant to this section, the affected county may thereafter, upon written notice to the Commission and to the Secretary, elect to adopt a special management area land use ordinance, in which event it shall comply with the provisions of this section for adoption of special management area land use ordinances. Upon concurrence of such land use ordinances by the Secretary they shall supersede any special management area land use ordinances for the county development by the Commission, subject to valid existing rights.

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

(o) Special rules

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

(2) Applicability – This subsection shall not apply to any land offered to the Secretary for acquisition after March 31, 2001.

(Pub. L. 99-663, Sec. 8, Nov. 17, 1986, 100 Stat. 4283; Pub. L. 06-291, title III, Sec. 346(b), Oct. 11, 2000, 114 Stat. 999.)

§ 544g

Sec. 9. Land acquisition

(a) Acquisition authorized

(1) The Secretary is authorized to acquire any lands or interests therein within the special management areas and the Dodson/Warrendale Special Purchase Unit which the Secretary determines are needed to achieve the purposes of sections 544 to 544p of this title: Provided, That any lands, waters, or interests therein owned by either State or any political subdivision thereof may be acquired only by donation or exchange.

- (2) Lands within the State of Oregon acquired by the Secretary pursuant to sections 544 to 544p of this title shall become part of the Mount Hood National Forest. Lands within the State of Washington acquired by the Secretary pursuant to this section shall become part of the Gifford Pinchot National Forest. All lands acquired by the Secretary pursuant to sections 544 to 544p of this title shall be subject to the laws and regulations pertaining to the National Forest System and sections 544 to 544p of this title.
- (b) Limitations on eminent domain
- (1) Where authorized in subsection (a) of this section to acquire land or interests therein without the consent of the owner, the Secretary shall –
 - (A) acquire only such land or interests therein as is reasonably necessary to accomplish the purposes of sections 544 to 544p of this title; and
 - (B) do so only in cases where all reasonable efforts to acquire with the consent of the owner such lands, or interests therein, have failed.
 - (2) Notwithstanding the provisions of subsection (a) of this section, the Secretary may not acquire without the consent of the owner lands or interests therein which –
 - (A) on November 17, 1986, were used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming, or grazing so long as the existing character of that use is not substantially changed or permitted for change;
 - (B) are located in counties with land use ordinances in which the Secretary has concurred pursuant to section 544f of this title, unless such lands are being used, or are in imminent danger of being used, in a manner incompatible with such ordinances;
 - (C) are within the boundaries of the Dodson/Warrendale Special Purchase Unit; or
 - (D) are owned by an Indian tribe, held in trust by the United States for an Indian tribe or member of an Indian tribe, or otherwise administered by the United States for the benefit of an Indian tribe or member of an Indian tribe.
- (c) Hardship cases. In exercising authority to acquire lands pursuant to this section the Secretary shall give prompt and careful consideration to any offer made by any person or entity owning any land, or interest in land, within the boundaries of a special management area. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.
- (d) Land exchanges
- (1) The Secretary is authorized and directed, in conformance with the provisions of this subsection, to acquire by exchange any parcel of unimproved forest land at least forty acres in size within the boundaries of the special management areas which is owned by any private forest land owner if, after November 17, 1986, but within one hundred and eighty days after final adoption of the management plan, such private forest land owner offers to the United States such parcel of forest land.
 - (2) In exercising this authority to acquire forest lands pursuant to this subsection, the Secretary may accept title to such lands and convey to the owner federally owned lands deemed appropriate by the Secretary within the States of Oregon

and Washington, regardless of the State in which the transferred lands are located. Forest lands exchanged pursuant to this subsection shall be of approximately equal value: Provided, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged: Provided further, That the Secretary may reserve in any conveyance pursuant to this subsection such easements, subsurface rights, and any other interests in land deemed necessary or desirable: Provided further, That the valuation of lands exchanged shall be determined in terms of forest uses for timber.

- (3) It is the intention of Congress that land exchanges pursuant to this subsection shall be completed no later than five years after November 17, 1986.
- (4) In the event that exchanges authorized by this section leave any private forest land owner with ownership of an uneconomic remnant of forest land contiguous to a special management area, the Secretary is authorized to acquire such forest lands as if they were within the boundaries of a special management area.
- (5) The following-described Federal lands and interests therein are hereby identified as candidate lands for exchanges conducted pursuant to this section: Provided, That the determination of which candidate lands will be exchanged, and in what sequence, shall be at the discretion of the Secretary. Subject to valid existing rights, such lands are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry, and patent under the United States mining law, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto until the Secretary determines such lands are no longer needed to complete exchanges authorized by this section: Provided, That such period shall not extend beyond five years:

GIFFORD PINCHOT NATIONAL FOREST

Wind River-Panther Creek Area

Section	Township	Range
35	4N	7E
36	4N	7E

Approx. 430 acres.

South Swift Area

Section	Township	Range
13	6N	5E
23	6N	5E
17	6N	6E
18	6N	6E

Approx. 1,920 acres.

Buck Creek-Willard Area

Section	Township	Range
16	3N	9E

1	4N	9E
2	4N	9E
3	4N	9E
10	4N	9E
11	4N	9E
12	4N	9E
15	4N	9E
21	4N	9E
22	4N	9E
26	4N	9E
27	4N	9E
28	4N	9E
29	4N	9E
30	4N	9E
31	4N	9E
32	4N	9E
33	4N	9E
34	4N	9E
35	4N	9E
6	4N	10E
7	4N	10E
5	5N	10E
6	5N	10E
7	5N	10E
8	5N	10E
9	5N	10E
30	5N	10E
31	5N	10E
32	5N	10E

Approx. 14,460 acres.

National Area

Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E

Approx. 2,560 acres.

SIUSLAW NATIONAL FOREST

East Beaver Area

Section	Township	Range
33	2S	9W
34	2S	9W
2	3S	9W
3	3S	9W
4	3S	9W
8	3S	9W
9	3S	9W
17	3S	9W

Approx. 3,053 acres.

WILLAMETTE NATIONAL FOREST

Ida-McCoy Area

Section	Township	Range
21	10S	6E
28	10S	6E

Approx. 680 acres.

MOUNT HOOD NATIONAL FOREST

Estacada Area

Section	Township	Range
15	10S	5E

Approx. 560 acres.

Zig-Zag Area

Section	Township	Range
22	2S	7E
29	2S	7E

Approx. 280 acres.

Hood River Area

Section	Township	Range
4	1N	9E
36	1N	10E
31	1N	11E
2	1S	9E
3	1S	9E
4	1S	9E
5	1S	9E
6	1S	9E

Approx. 5,800 acres.

(e) Appraisals

- (1) Definition of landowner – In this subsection, the term "landowner" means the owner of legal or equitable title as of September 1, 2000.
- (2) Appraisal standards – Except as provided in paragraph (3), land acquired or conveyed by purchase or exchange under this section shall be appraised in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.
- (3) Special management areas
 - (A) Before April 1, 2001 – Land within a special management area for which the landowner, before April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised –

- (i) without regard to the effect of any zoning or land use restriction made in response to sections 544 to 544p of this title; but
 - (ii) subject to any other current zoning or land use restriction imposed by the State or locality in which the land is located on the date of the offer.
- (B) On or after April 1, 2001 – Land within a special management area for which the landowner, on or after April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised subject to –
 - (i) any zoning or land use restriction made in response to sections 544 to 544p of this title; and
 - (ii) any other current zoning or land use restriction that applies to the land on the date of the offer.
- (f) Authorization for certain land exchanges
 - (1) In general. To facilitate priority land exchanges through which land within the boundaries of the White Salmon Wild and Scenic River or within the scenic area is conveyed to the United States, the Secretary may accept title to such land as the Secretary determines to be appropriate within the States, regardless of the State in which the land conveyed by the Secretary in exchange is located, in accordance with land exchange authorities available to the Secretary under applicable law.
 - (2) Special rule for land certain exchanges. Notwithstanding any other provision of law –
 - (A) any exchange described in paragraph (1) for which an agreement to initiate has been executed as of September 30, 2000, shall continue; and
 - (B) any timber stumpage proceeds collected under the exchange shall be retained by the Forest Service to complete the exchange.
- (g) Boundaries. For the purposes of section 4601-9 of this title, the boundaries of the scenic area, including special management areas and the Dodson/Warrendale Special Purchase Unit shall be treated as if they were within the boundaries of the Mount Hood or Gifford Pinchot National Forests as of January 1, 1965.

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

§ 544h Sec. 10. Interim management

- (a) Interim guidelines
 - (1)⁶ Within one hundred eighty days after November 17, 1986, the Secretary shall develop interim guidelines for the scenic area outside urban areas to identify land use activities which are inconsistent with sections 544 to 544p of this title and to govern the authority to acquire land without the consent of the owner provided by subsection (b) of this section. The Secretary shall promptly notify the public of adoption of the interim guidelines and transmit the guidelines to each county. Guidelines adopted by the Secretary pursuant to this subsection shall remain in effect for each county until the Secretary has developed guidelines for the special management areas pursuant to section 544f of this title and the land use ordinances prescribed by section 544e of this title are in effect.

⁶ So in original. No par. (2) has been enacted.

- (b) Interim acquisition authority and injunctive relief. Prior to the concurrence by the Secretary of land use ordinances prescribed by section 544f of this title and the approval by the Commission of land use ordinances prescribed by section 544e of this title, the following authorities are granted:
- (1) The Secretary may acquire by condemnation any land or interest which is being used or threatened to be used in a manner inconsistent with the purposes for which the scenic area was established and which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area: Provided, That no lands or interests therein can be acquired by condemnation pursuant to this section if used in the same manner and for the same purposes as used on November 17, 1986, unless such land is used for or interest is in the development of sand, gravel, or crushed rock, or the disposal of refuse: Provided further, That within thirty days of the filing by the Secretary of a complaint for condemnation of any land or interest in the scenic area, outside of the special management areas and urban areas, the Commission, by a vote of two-thirds of its membership including a majority of the members appointed from each State, or if the Commission is not in existence the Governor of the State in which the land or interest is located, may disapprove such proposed complaint.
 - (2) Upon or after the commencement of any action for condemnation pursuant to this subsection, the Secretary, acting through the Attorney General of the United States, may apply to the appropriate United States District Court for a temporary restraining order or injunction to prohibit the use of any property within the scenic area, but outside of urban areas, which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation and natural resources of the scenic area or is otherwise inconsistent with the purposes for which the scenic area was established. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that, following termination of the order or injunction, the inconsistent use is abated or the adverse effect is mitigated.
- (c) Review of development action. Prior to the effective date of a land use ordinance for each county pursuant to section 544e of this title, and concurrence of the Secretary on a land use ordinance for each county pursuant to section 544f of this title, the Commission shall review all proposals for major development actions and new residential development in such county in the scenic area, except urban areas. The Commission shall allow major development actions and new residential development only if it determines that such development is consistent with the standards contained in section 544d of this title and the purposes of sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 10, Nov. 17, 1986, 100 Stat. 4291.)

§ 544i Sec. 11. Economic development

- (a) Economic development plan. Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with sections 544 to 544p of this title.
- (b) Funds provided to States for grants. Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall

provide \$5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of sections 544 to 544p of this title.

- (c) Conditions of grants. Each State making grants under this section shall require as a condition of a grant that –
- (1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of sections 544 to 544p of this title, the management plan, and land use ordinances adopted pursuant to sections 544 to 544p of this title;
 - (2) grants and loans are not used to relocate a business from one community to another;
 - (3) grants and loans are not used for program administration; and
 - (4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.
- (d) Report. Each State shall –
- (1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;
 - (2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and
 - (3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

(Pub. L. 99-663, Sec. 11, Nov. 17, 1986, 100 Stat. 4292.)

§ 544j Sec. 12. Old Columbia River Highway

The Oregon Department of Transportation shall, in consultation with the Secretary and the Commission, the State of Oregon and the counties and cities in which the Old Columbia River Highway is located, prepare a program and undertake efforts to preserve and restore the continuity and historic integrity of the remaining segments of the Old Columbia River Highway for public use as a Historic Road, including recreation trails to connect intact and usable segments.

(Pub. L. 99-663, Sec. 12, Nov. 17, 1986, 100 Stat. 4293.)

§ 544k Sec. 13. Tributary rivers and streams

- (a) Water resources projects. The following rivers and streams shall be subject to the same restrictions on the licensing, permitting, and exempting from licensing and the construction of water resource projects as provided for components of the National Wild and Scenic Rivers System pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):
- (1) any tributary river or stream to the Columbia River not designated in subsections⁷ (c) or (d) of this section or otherwise specified in this subsection which flows in whole or in part through a special management area, unless the construction of a water resources project would not have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the scenic area;

⁷ So in original. Probably should be "subsection".

- (2) any river or river segment which flows in whole or in part through the scenic area and which is established pursuant to State law as a wild, scenic, or recreation river or which is under study pursuant to State law for the potential inclusion in any such State protected river system, unless such project or projects meet terms and conditions set by State agencies exercising administration over such river or river segment;
 - (3) the Wind River, Washington, for a period not less than three years following the later of –
 - (A) final approval of the Gifford Pinchot National Forest Plan, adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended) (16 U.S.C. 1600 et seq.); or
 - (B) submittal by the Secretary of a report to the President on the suitability or nonsuitability for addition to the national wild and scenic rivers system and a report by the President to the Congress of recommendations and proposals with respect to the designation of such river under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);
 - (4) the Hood River, Oregon, for a period not to exceed twenty years from November 17, 1986, if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986; and
 - (5) the segment of the Little White Salmon, Washington, from the Willard National Fish Hatchery to its confluence with the Columbia River if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986.
- (b) Exceptions. The provisions of subsection (a) of this section shall not apply to those portions of tributary rivers or streams to the Columbia River which flow through or border on Indian reservations. Nothing in this section shall apply to or affect any segment of any river designated as a wild and scenic river under section 3 of the Wild and Scenic Rivers Act (16 U.S.C. 1274) or any river designated for study under section 5 of such Act (16 U.S.C. 1276).

(Pub. L. 99-663, Sec. 13(a), (b), Nov. 17, 1986, 100 Stat. 4293, 4294.)

§ 5441 Sec. 14. Implementation measures

- (a) Assistance to counties. The Secretary shall provide technical assistance on a nonreimbursable basis to counties for the development of land use ordinances prescribed by sections 544e and 544f of this title: Provided, That in the event a county fails to obtain approval by the Commission for a land use ordinance within three years after the date technical assistance is first provided under this subsection for the development of a land use ordinance, the Secretary shall terminate all technical assistance for any participation in the development of such ordinance.
- (b) Payment of timber receipts
 - (1) Notwithstanding the provisions of section 500 of this title, that portion of which is paid under such provisions to the State of Oregon with respect to the special management areas within the Mount Hood National Forest, the Gates of the Columbia Gorge Special Management Area, Mount Hood National Forest, and to the State of Washington with respect to the special management areas within the Gifford Pinchot National Forest –

- (A) not less than 50 per centum shall be expended for the benefit of the public schools of the county which has adopted implementation measures pursuant to sections 544 to 544p of this title; and
- (B) the remainder shall be expended for the benefit of public roads or any public purposes of any county which has adopted implementation measures pursuant to sections 544 to 544p of this title.
- (2) Paragraph (1) of this subsection shall not apply –
 - (A) to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (b)(1) of this section at the end of any fiscal year ending before November 17, 1986; or
 - (B) for a particular county, if the county does not have in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.
- (c) Payments to local governments
 - (1) Subject to section 544n(b) of this title, in the case of any land or interest therein acquired by the Secretary pursuant to section 544g of this title, which was subject to local real property taxes within the five years preceding such acquisition and which is located in a county which has in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title, the Secretary is authorized and directed to make annual payments to the county in which such lands are located in an amount equal to 1 per centum of the fair market value of such land or interest therein on the date of acquisition by the Secretary.
 - (2) Notwithstanding paragraph (1) of this subsection, any payment made for any fiscal year to a county pursuant to this subsection shall not exceed the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest therein was acquired by the Secretary.
 - (3) Limitation.
 - (A) In general. - Except as provided in subparagraph (B), no payment shall be made under this subsection with respect to any land or interest therein after the eighth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.
 - (B) Continuation of certain payments. - For any land or interest in land for which the Secretary is making a payment in fiscal year 2000, such payment shall be continued for a total of eight fiscal years.
- (d) Federal consistency. Except as otherwise provided in subsection (e) of this section or in section 544o of this title, Federal agencies having responsibilities within the scenic area shall exercise such responsibilities consistent with the provisions of sections 544 to 544p of this title as determined by the Secretary.
- (e) Limitations on Federal expenditures affecting the scenic area
 - (1) Except as provided in paragraph (3), if the Commission has not been established pursuant to section 544c of this title within fifteen months after November 17, 1986, or is otherwise disestablished for any reason, no new expenditures or new financial assistance may be made available, and no new license or new permit, or exemption from a license or permit requirement, shall be issued, under authority of any Federal law for any activity within the scenic

- area, excluding urban areas, which the Secretary,⁸ determines is inconsistent with any implementation measure pursuant to, the standards established in section 544d(b) of this title, or the purposes of sections 544 to 544p of this title.
- (2) (A) (i) An expenditure or financial assistance made available under authority of Federal law shall be treated, for purposes of this subsection, as a new expenditure or new financial assistance if –
- (I) in any case with respect to which specific appropriations are required, no money for construction or purchase was appropriated before October 1, 1986; or
 - (II) no legally binding commitment for the expenditure or financial assistance was made before October 1, 1986.
- (ii) Payments made to the State pursuant to the following Acts shall not be treated as an expenditure or financial assistance for purposes of this subsection: section 500 of this title; the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181 et seq.); chapter 69 of title 31 (relating to payments in lieu of taxes for entitlement land); the Act of June 9, 1916 (39 Stat. 218), and the Act of Feb. 26, 1919 (40 Stat. 1179).
- (B) A license or permit, or exemption from a license or permit requirement, shall be treated, for purposes of this subsection, as a new license or new permit, or exemption from a license or permit requirement, if such license or permit, or exemption from a license or permit requirement, was issued on or after October 1, 1986. A renewal under similar terms and conditions of a license or permit, or exemption from a license or permit requirement, issued before October 1, 1986, shall not be treated as a new license or new permit, or exemption from a license or permit requirement.
- (3) Notwithstanding paragraph (1), the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the area for any of the following:
- (A) The maintenance of existing channel improvements and related structures, and including the disposal of dredge materials related to such improvements.
 - (B) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.
 - (C) Military activities essential to national security.
 - (D) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the standards in section 544d(b) of this title and the purposes of sections 544 to 544p of this title:
 - (i) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.
 - (ii) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

⁸ So in original. The comma probably should not appear.

- (iii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).
 - (iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.
 - (v) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.
 - (vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities. This clause shall not apply to roads, structures, or facilities referred to in paragraph (3)(B).
 - (vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.
- (4) The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this subsection during each fiscal year beginning after September 30, 1987. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.
- (5) Nothing contained in this subsection shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person or any obligation imposed by any law of any State, or political subdivision of a State. No provision of this subsection shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This subsection shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.
- (f) Transfer of public lands. Subject to valid existing rights, all public lands within the scenic area administered by the Secretary of the Interior through the Bureau of Land Management are hereby transferred without consideration to the jurisdiction of the Secretary to be managed as National Forest lands in accordance with the provisions of sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 14, Nov. 17, 1986, 100 Stat. 4294; Pub. L. 106-291, title III, Sec. 346(e), Oct. 11, 2000, 114 Stat. 1000.)

§ 544m Sec. 15. Enforcement

- (a) Administrative remedies
 - (1) Commission orders. The Commission shall monitor activities of counties pursuant to sections 544 to 544p of this title and shall take such actions as it determines are necessary to ensure compliance.
 - (2) Appeal to the Commission. Any person or entity adversely affected by any final action or order of a county relating to the implementation of sections 544 to 544p of this title may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated, or set aside.
 - (3) Civil penalties. Any person or entity who willfully violates the management plan or any land use ordinance or any implementation measure or any order issued by the Commission pursuant to sections 544 to 544p of this title may be assessed a civil penalty by the Commission not to exceed \$10,000 for each violation. No penalty may be assessed under this subsection unless such person or entity is given notice and opportunity for a public hearing with respect to such violation. The Commission may compromise, modify, or remit, with or without conditions, any penalty imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the violator to remedy the violation in a timely manner.
- (b) Judicial remedies
 - (1) Civil actions to enforce sections 544 to 544p of this title
 - (A) Except as otherwise limited by sections 544 to 544p of this title, the Attorney General of the United States may, at the request of the Secretary, institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the special management areas in violation of the provisions of sections 544 to 544p of this title, interim guideline adopted or other action taken by the Secretary pursuant to sections 544 to 544p of this title.
 - (B) The Commission, or, at the request of the Commission, or the attorney general of Oregon or Washington, may institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the scenic area outside urban areas in violation of the provisions of sections 544 to 544p of this title, the management plan, or any land use ordinance or interim guideline adopted or other action taken by the Commission or any county pursuant to sections 544 to 544p of this title.
 - (2) Citizens suits. Any person or entity adversely affected may commence a civil action to compel compliance with sections 544 to 544p of this title -
 - (A) against the Secretary, the Commission or any county where there is alleged a violation of the provisions of sections 544 to 544p of this title, the management plan or any land use ordinance or interim guideline adopted or other action taken by the Secretary, the Commission, or any county pursuant to or Commission⁹ under sections 544 to 544p of this title; or

⁹ So in original. The word "Commission" probably should not appear.

- (B) against the Secretary, the Commission, or any county where there is alleged a failure of the Secretary, the Commission or any county to perform any act or duty under sections 544 to 544p of this title which is not discretionary with the Secretary, the Commission or any county.
- (3) Limitation on bringing of citizens suits. No action may be commenced -
- (A) under paragraph (2)(A) of this subsection –
 - (i) prior to sixty days after the plaintiff has given notice in writing of the alleged violation to the Secretary, to the Commission, and to the county in which the violation is alleged to have occurred; or
 - (ii) if the Attorney General of the United States, or the attorney general of Oregon or Washington, has commenced and is diligently prosecuting a civil action on the same matter pursuant to paragraph (1) of this subsection to require compliance with the management plan or any regulations, guidelines, or standards issued or other actions taken by the Secretary, the Commission, or any county pursuant to sections 544 to 544p of this title: Provided, That in any such action any person or entity otherwise entitled to bring an action pursuant to paragraph (2) of this subsection may intervene as a matter of right; or
 - (iii) which challenges the consistency of the draft management plan with the purposes and standards of sections 544 to 544p of this title or with other applicable law prior to the certification or adoption of the Management Plan pursuant to section 544d of this title; or
 - (B) under paragraph (2)(B) of this subsection prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, the Commission, and to the county in which the failure to perform any act or duty pursuant to sections 544 to 544p of this title is alleged: Provided, That such action may be brought immediately after such notification where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.
- (4) Judicial review. Any person or entity adversely affected by –
- (A) any final action or order of a county, the Commission, or the Secretary relating to the implementation of sections 544 to 544p of this title;
 - (B) any land use ordinance or interim guideline adopted pursuant to sections 544 to 544p of this title;
 - (C) any appeal to the Commission pursuant to this section;
 - (D) any civil penalty assessed by the Commission pursuant to paragraph (a)(3) of this subsection may appeal such action or order by filing in any of the courts specified in paragraph (5) of this subsection, within sixty days after the date of service of such order or within sixty days after such action is taken, a written petition requesting such action, order, land use ordinance, interim guideline, or appeal taken to the Commission be modified, terminated, or set aside.
- (5) Federal court jurisdiction. The United States district courts located in the States of Oregon and Washington shall have jurisdiction over –

- (A) any criminal penalty imposed pursuant to section 551 of this title, or any other applicable law for violation of any order, regulation or other action taken by the Secretary pursuant to sections 544 to 544p of this title;
 - (B) any civil action brought against the Secretary pursuant to this section; or
 - (C) any appeal of any order, regulation, or other action of the Secretary taken pursuant to paragraph (4) of this subsection.
- (6) State court jurisdiction. The State courts of the States of Oregon and Washington shall have jurisdiction –
- (A) to review any appeals taken to the Commission pursuant to subsection (a)(2) of this section;
 - (B) over any civil action brought by the Commission pursuant to subsection (b)(1) of this section or against the Commission, a State, or a county pursuant to subsection (b)(2) of this section;
 - (C) over any appeal of any order, regulation, or other action of the Commission or a county taken pursuant to paragraph 4 of this subsection; or
 - (D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

(Pub. L. 99-663, Sec. 15, Nov. 17, 1986, 100 Stat. 4297.)

§ 544n Sec. 16. Authorization of appropriations

- (a) General authorizations. There are authorized to be appropriated for fiscal years after the fiscal year 1986 such sums as are described below;¹⁰
- (1) For the purpose of acquisition of lands, water and interests therein pursuant to sections 544 to 544p of this title: \$40,000,000: Provided, That of this amount no more than \$10,000,000 shall be available to acquire lands, water, and interests therein pursuant to section 544h of this title. Such amounts are authorized to be appropriated from amounts covered into the Land and Water Conservation Fund notwithstanding any allocation, apportionment, or limitation contained in the Land and Water Conservation Fund (16 U.S.C. 460l-4 and following).
 - (2) For the purpose of providing payments to local governments pursuant to section 544l(c) of this title: \$2,000,000.
- (b) Specific authorizations. There are authorized to be appropriated for fiscal years after the fiscal year 1986, effective upon concurrence on the management plan pursuant to section 544d of this title:
- (1) For the purpose of construction of an interpretive center to be located in the State of Oregon, and a conference center to be located in the State of Washington: \$10,000,000.
 - (2) For the purpose of construction of recreation facilities pursuant to section 544e(d) of this title: \$10,000,000.
 - (3) For the purpose of preparing a program and restoring and reconstructing the Old Columbia River Scenic Highway, Oregon pursuant to section 544j of this title: \$2,800,000.
 - (4) For the purpose of providing economic development grants pursuant to section 544i of this title: \$5,000,000 for each State: Provided, That funds authorized to be appropriated pursuant to this paragraph shall be available for the acquisition

¹⁰ So in original. The semicolon probably should be a colon.

of lands and interests therein pursuant to section 544h of this title if, at the expiration of three years, the States have failed to carry out their respective function pursuant to section 544c of this title.

- (c) Availability of funds. Funds appropriated under subsections (a)(2) and (b) of this section shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission, and concurred on by the Secretary as consistent with the management plan pursuant to section 544f of this title.

(Pub. L. 99-663, Sec. 16, Nov. 17, 1986, 100 Stat. 4300.)

§ 544o Sec. 17. Savings provisions

- (a) Nothing in sections 544 to 544p of this title shall –
- (1) affect or modify any treaty or other rights of any Indian tribe;
 - (2) except as provided in section 13(c), authorize the appropriation or use of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual;
 - (3) except as provided in section 13(c), affect the rights or jurisdictions of the United States, the States, Indian tribes or other entities over waters of any river or stream or over any ground water resource or affect or interfere with transportation activities on any such river or stream;
 - (4) except as provided in section 13(c), alter, establish, or affect the respective rights of the United States, the States, Indian tribes, or any person with respect to any water or water-related right;
 - (5) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States before November 17, 1986;
 - (6) affect or modify the ability of the Bonneville Power Administration to operate, maintain, and modify existing transmission facilities;
 - (7) affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes;
 - (8) affect the laws, rules and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties;
 - (9) require any revision or amendment of any forest plan adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended (16 U.S.C. 1600 et seq.)); or
 - (10) establish protective perimeters or buffer zones around the scenic area or each special management area. The fact that activities or uses inconsistent with the management directives for the scenic area or special management areas can be seen or heard from these areas shall not, of itself, preclude such activities or uses up to the boundaries of the scenic area or special management areas.
- (b) Improvement of navigation facilities at Bonneville Dam. Except for the offsite disposal of excavation material, nothing in sections 544 to 544p of this title shall be construed to affect or modify the responsibility of the United States Army Corps of Engineers to improve navigation facilities at Bonneville Dam pursuant to Federal law.

- (c) Rights and responsibilities of non-Federal timber land owners. Except for the management, utilization, or disposal of timber resources of non-Federal lands within the special management areas, nothing in sections 544 to 544p of this title shall affect the rights and responsibilities of non-Federal timber land owners under the Oregon and Washington Forest Practices Acts or any county regulations which under applicable State law supersede such Acts.
- (d) Interstate compacts. Mandatory language in sections 544 to 544p of this title respecting the powers and responsibilities of the Commission shall be interpreted as conditions precedent to congressional consent to the interstate compact described in section 544c of this title.
- (e) Failure to establish Columbia River Gorge Commission; responsibility of Secretary. In the event that the States of Washington and Oregon fail to comply with the provisions of section 544c of this title, the Secretary shall not be obligated to take actions which are predicated upon the establishment of the Commission.
- (f) Actions of Secretary as major Federal actions affecting the environment
 - (1) Actions by the Secretary pursuant to subsections (f), (g), and (h) of section 544d of this title; subsections (f), (j), (k), and (l) of section 544f of this title; section 544g of this title; and subsections (a) and (b)(2) of section 544h of this title shall neither be considered major Federal actions significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act (42 U.S.C. 4321 et seq.).
 - (2) Except as provided in paragraph (1) of this subsection, nothing in sections 544 to 544p of this title shall expand, restrict, or otherwise alter the duties of the Secretary under the National Environmental Policy Act.

(Pub. L. 99-663, Sec. 17, Nov. 17, 1986, 100 Stat. 4300.)

§ 544p Sec. 18. Severability

- (a)¹¹ If any provision of sections 544 to 544p of this title or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of sections 544 to 544p of this title, nor the application of any provisions herein to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

(Pub. L. 99-663, Sec. 18, Nov. 17, 1986, 100 Stat. 4302.)

¹¹ So in original. No subsec. (b) has been enacted.