

## Appendix A

# Assateague Island National Seashore – Enabling Legislation

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**Table A.1 Assateague Island National Seashore – Summary of Enabling Legislation and Amendments**

Year	Public Law	Statute	Summary
1965	PL 89-195	79 Stat. 824	Includes enabling legislation for Assateague Island National Seashore (see following pages A-2 to A-9)
1976	PL 94-578	90 Stat. 2733	<p>Repealed in entirety §459f–7 which provided for construction of overnight and other public accommodation facilities, land selection and land fill, concession facilities, and the promulgation of rules and regulations covering those areas by the Secretary of the Interior</p> <p>Repealed in entirety §459f–9 which provided for construction of a road from the Chincoteague-Assateague Island Bridge to 1) an area in the wildlife refuge deemed appropriate for recreation purposes, and 2) the Sandy Point-Assateague Bridge</p> <p>Created new §459f–11 directing the Secretary of the Interior to develop and transmit to Congress a comprehensive plan for the protection, management, and use of the seashore</p>
1990	PL 101-512	104 Stat. 1924	<p>Authorized an increase in potential land acquisition on the mainland for an administrative site from 10 acres to 16 acres (amendment to §459f–2)</p> <p>Increased the amount of federal land within the seashore boundary that could be transferred without consideration to the administrative jurisdiction of the Secretary of the Interior from 10 acres to 16 acres (amendment to §459f–2)</p> <p>Increased the amount of non-federal property on the mainland that could be acquired by exchange by the Secretary of the Interior from 10 acres to 16 acres (amendment to §459f–2)</p>
1992	PL 102-320	106 Stat. 321	<p>Authorized an increase in potential land acquisition on the mainland for an administrative site from 16 acres to 112 acres (amendment to §459f–2)</p> <p>Removed the limitation (previously limited to 16 acres) on transfer of federal land within the seashore boundary without consideration to the administrative jurisdiction of the Secretary of the Interior (amendment to §459f–2)</p> <p>Authorized acceptance of the donation of a scenic easement covering the “Woodcock Property” adjacent to the seashore (amendment to §459f–2)</p> <p>Removed the limitation (previously limited to 16 acres) on the amount of non-federal property on the mainland that could be acquired by exchange by the Secretary of the Interior (§459f–2)</p> <p>Authorized the Secretary of the Interior to enter into cooperative agreements with local, state and federal agencies, and with educational institutions and non-profit entities to coordinate research and to provide technical assistance to ensure full protection of the natural and cultural resources of the seashore consistent with the purposes for which the seashore was established and other applicable law (amendment to §459f–5)</p>

## 16 U.S.C. Title 16 Section 459f

### **§459f. Assateague Island National Seashore; purposes; description of area**

For the purpose of protecting and developing Assateague Island in the States of Maryland and Virginia and certain adjacent waters and small marsh islands for public outdoor recreation use and enjoyment, the Assateague Island National Seashore (hereinafter referred to as the “seashore”) shall be established and administered in accordance with the provisions of sections 459f to 459f–11 of this title. The seashore shall comprise the area within Assateague Island and the small marsh islands adjacent thereto, together with the adjacent water areas not more than one-half mile beyond the mean high waterline of the land portions as generally depicted on a map identified as “Proposed Assateague Island National Seashore, Boundary Map, NS–AI–7100A, November, 1964”, which map shall be on file and available for public inspection in the offices of the Department of the Interior.

(Pub. L. 89–195, §1, Sept. 21, 1965, 79 Stat. 824.)

### **§459f–1. Acquisition of property**

#### **(a) Authority of Secretary; manner and place; fair market value; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary**

Within the boundaries of the seashore, the Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to acquire lands, waters, and other property, or any interest therein, by donation, purchase with donated or appropriated funds, exchange, or in such other method as he may find to be in the public interest. The Secretary is authorized to include within the boundaries of the seashore, not to exceed 112 acres of land or interests therein on the mainland in Worcester County, Maryland. In the case of acquisition by negotiated purchase, the property owners shall be paid the fair market value by the Secretary. Any property or interests therein owned by the States of Maryland or Virginia shall be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for purposes of the seashore.

#### **(b) Exchange of property; cash equalization payments; scenic easement donation**

When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which the Secretary classifies suitable for exchange or other disposal, and which is located in Maryland or Virginia. The properties so exchanged shall be approximately equal in fair market value, but the Secretary may accept cash from or pay cash to the grantor in order to equalize the values of the properties exchanged. Notwithstanding the acreage limitation set forth in sections 459f to 459f–11 of this title, the Secretary is authorized to accept the donation of a scenic easement covering the parcel of land adjacent to the seashore and known as the “Woodcock Property”.

#### **(c) Bridge acquisition; amount of compensation; payment terms and conditions**

The Secretary is authorized to acquire all of the right, title, or interest of the Chincoteague-Assateague Bridge and Beach Authority, a political subdivision of the State of Virginia, in the bridge constructed by such authority across the Assateague Channel, together with all lands or interests therein, roads, parking lots, buildings, or other real or personal property of such authority, and to compensate the authority in such amount as will permit it to meet its valid outstanding obligations at the time of such acquisition. Payments by the Secretary shall be on such terms and conditions as he shall consider to be in the public interest. Any of the aforesaid property outside the boundaries of the national seashore, upon acquisition by the Secretary, shall be subject to his administration for purposes of the seashore.

**(d) Owner's reservation of right of use and occupancy for residential or hunting purposes for term of years; adjustment of compensation; rules and regulations for appearance of buildings; "improved property" defined**

Owners of improved property acquired by the Secretary may reserve for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes or for hunting purposes, as hereinafter provided, for a term that is not more than twenty-five years. In such cases, the Secretary shall pay to the owner of the property the fair market value thereof less the fair market value of the right retained by such owner: *Provided*, That such use and occupancy shall be subject to general rules and regulations established by the Secretary with respect to the outward appearance of any buildings on the lands involved. The term "improved property" as used in sections 459f to 459f-11 of this title shall mean (1) any single-family residence the construction of which was begun before January 1, 1964, and such amount of land, not in excess of three acres, on which the building is situated as the Secretary considers reasonably necessary to the noncommercial residential use of the building, and (2) any property fronting on the Chincoteague Bay or Sinepuxent Bay, including the offshore bay islands adjacent thereto, that is used chiefly for hunting and continues in such use: *Provided*, That the Secretary may exclude from improved properties any marsh, beach, or waters, together with so much of the land adjoining such marsh, beach, or waters as he deems necessary for public use or public access thereto.

(Pub. L. 89-195, §2, Sept. 21, 1965, 79 Stat. 824; Pub. L. 101-512, title I, Nov. 5, 1990, 104 Stat. 1924; Pub. L. 102-320, §1(1)-(4), July 10, 1992, 106 Stat. 321.)

**Amendments**

**1992**—Subsec. (a). Pub. L. 102-320, §1(1), (2), amended second and last sentences generally, substituting reference to 112 acres for reference to sixteen acres for an administrative site in second sentence and striking out reference in last sentence to sixteen acres of Federal property on the mainland in Worcester County, Maryland.

Subsec. (b). Pub. L. 102-320, §1(3), (4), amended first sentence generally, striking out reference to not more than sixteen acres of non-Federal property on the mainland in Worcester County, Maryland, and inserted at end "Notwithstanding the acreage limitation set forth in sections 459f to 459f-11 of this title, the Secretary is authorized to accept the donation of a scenic easement covering the parcel of land adjacent to the seashore and known as the 'Woodcock Property'."

**1990**—Subsecs. (a), (b). Pub. L. 101-512 substituted "sixteen acres" for "ten acres" wherever appearing.

**§459f-2. Compensation for bridge construction costs; acquisition of land for park purposes**

**(a) Bridge construction costs; compensation of State; limitation of amount**

If the bridge from Sandy Point to Assateague Island is operated by the State of Maryland as a toll-free facility, the Secretary is authorized and directed to compensate said State in the amount of two-thirds of the cost of constructing the bridge, including the cost of bridge approaches, engineering, and all other related costs, but the total amount of such compensation shall be not more than \$1,000,000; and he is authorized to enter into agreements with the State of Maryland relating to the use and management of the bridge.

**(b) Acquisition or lease of Federal lands for State park purposes; terms and conditions; reversion upon noncompliance; consideration for lease; amount of payment for conveyance of title and improvements; limitation of reimbursement for beach protection**

The State of Maryland shall have the right to acquire or lease from the United States such lands, or interests therein, on the island north of the area now used as a State park as the State may from time to time determine to be needed for State park purposes, and the Secretary is authorized and directed to convey or lease such lands, or interests therein, to the State for such purposes upon terms and conditions which he deems will assure its public use in harmony with the purposes of sections 459f to 459f-11 of this title. In the event any of such terms and conditions are not complied with, all the property, or any portion thereof, shall, at the option of the Secretary,

revert to the United States, in its then existing condition. Any lease hereunder shall be for such consideration as the Secretary deems equitable; and any conveyance of title to land hereunder may be made only upon payment by the State of such amounts of money as were expended by the United States to acquire such land, or interests therein, and upon payments of such amounts as will reimburse the United States for the cost of any improvements placed thereon by the United States, including the cost to it of beach protection: *Provided*, That reimbursement for beach protection shall not exceed 30 per centum, as determined by the Secretary, of the total cost of the United States of such protection work.

(Pub. L. 89–195, §3, Sept. 21, 1965, 79 Stat. 825.)

#### **§459f–3. Establishment of Seashore; notice in Federal Register**

When the Secretary determines that land, water areas, or interests therein within the area generally depicted on the map referred to in section 459f of this title are owned or have been acquired by the United States in sufficient quantities to provide an administrable unit, he shall declare the establishment of the Assateague Island National Seashore by publication of notice thereof in the Federal Register. Such notice shall contain a refined description or map of the boundaries of the seashore as the Secretary may find desirable, and the exterior boundaries shall encompass an area as nearly as practicable identical to the area described in section 459f of this title.

(Pub. L. 89–195, §4, Sept. 21, 1965, 79 Stat. 825.)

#### **§459f–4. Hunting and fishing provisions**

The Secretary shall permit hunting and fishing on land and waters under his control within the seashore in accordance with the appropriate State laws, to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management or public use and enjoyment: *Provided*, That nothing in sections 459f to 459f–11 of this title, shall limit or interfere with the authority of the States to permit or to regulate shellfishing in any waters included in the national seashore: *Provided further*, That nothing in said sections shall add to or limit the authority of the Federal Government in its administration of Federal laws regulating migratory waterfowl. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities. The provisions of this section shall not apply to the Chincoteague National Wildlife Refuge.

(Pub. L. 89–195, §5, Sept. 21, 1965, 79 Stat. 826.)

#### **§459f–5. Administration of Seashore**

##### **(a) Public outdoor recreation and enjoyment; utilization of other authorities**

Except as provided in subsection (b) of this section, the Secretary shall administer the Assateague Island National Seashore for general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore and the administrative site the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authority otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of sections 459f to 459f–11 of this title.

##### **(b) Refuge land and waters; application of national wildlife refuge provisions; public recreation uses in accordance with provisions for national conservation recreational areas**

Notwithstanding any other provision of sections 459f to 459f–11 of this title, land and waters in the Chincoteague National Wildlife Refuge, which are a part of the seashore, shall be administered for refuge purposes under laws and regulations applicable to national wildlife refuges, including administration for public recreation uses in accordance with the provisions of the Act of September 28, 1962 (Public law 87–714; 76 Stat. 653) [16 U.S.C. 460k et seq.].

**(c) Cooperative agreements and technical assistance to protect seashore resources**

The Secretary is authorized to enter into cooperative agreements with local, State, and Federal agencies and with educational institutions and nonprofit entities to coordinate research designed to ensure full protection of the natural and cultural resources of the seashore, consistent with the purposes for which the seashore was established, and other applicable law. The Secretary is also authorized to provide technical assistance to local, State, and Federal agencies and to educational institutions and non-profit entities in order to further such purposes. The Secretary shall submit a report every two years to the Congress on the results of the coordinated research program authorized by this section and plans to implement the recommendations arising from such research.

(Pub. L. 89–195, §6, Sept. 21, 1965, 79 Stat. 826; Pub. L. 102–320, §1(5), July 10, 1992, 106 Stat. 321.)

**§459f–6. Repealed. Pub. L. 94–578, title III, §301, Oct. 21, 1976, 90 Stat. 2733**

Section, Pub. L. 89–195, §7, Sept. 21, 1965, 79 Stat. 826, made provision for the construction of overnight and other public accommodation facilities, land selection and land fill, concession facilities, and the promulgation of rules and regulations covering those areas by the Secretary of the Interior. See section 459f–11 of this title.

**§459f–7. Beach erosion control and hurricane protection**

The Secretary of the Interior and the Secretary of the Army shall cooperate in the study and formulation of plans for beach erosion control and hurricane protection of the seashore; and any such protective works that are undertaken by the Chief of Engineers, Department of the Army, shall be carried out in accordance with a plan that is acceptable to the Secretary of the Interior and is consistent with the purposes of sections 459f to 459f–11 of this title.

(Pub. L. 89–195, §8, Sept. 21, 1965, 79 Stat. 827.)

**§459f–8. Repealed. Pub. L. 94–578, title III, §301, Oct. 21, 1976, 90 Stat. 2733**

Section, Pub. L. 89–195, §9, Sept. 21, 1965, 79 Stat. 827, authorized and directed the Secretary of the Interior to construct and maintain a road from the Chincoteague-Assateague Island Bridge to an area in the wildlife refuge that he deemed appropriate for recreation purposes and to acquire the necessary lands and rights-of-way for a road from the Chincoteague-Assateague Island Bridge to the Sandy Point-Assateague Bridge. See section 459f–11 of this title.

**§459f–9. Public utility facilities; purchase of facilities without value to utility; amount of payment**

The Secretary of the Interior is authorized to purchase from a public utility any facilities of that utility which are no longer of value to it as a result of the establishment of the Assateague Island National Seashore and shall pay for such facilities an amount equal to the cost of constructing such facilities less depreciation.

(Pub. L. 89–195, §10, Sept. 21, 1965, 79 Stat. 827.)

**§459f–10. Authorization of appropriations**

There are hereby authorized to be appropriated the sum of not more than \$22,400,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States) for the acquisition of lands and interests in land and such sums as may be necessary for the development of the area authorized under sections 459f to 459f–11 of this title.

(Pub. L. 89–195, §11, Sept. 21, 1965, 79 Stat. 827; Pub. L. 92–272, title I, §101(1), Apr. 11, 1972, 86 Stat. 120; Pub. L. 94–578, title I, §101(2), Oct. 21, 1976, 90 Stat. 2732.)

**Amendments**

**1976**—Pub. L. 94–578 substituted “\$22,400,000” for “\$21,050,000”.

**1972**—Pub. L. 92–272 substituted “\$21,050,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States)” for “\$16,250,000”.

**§459f–11. Comprehensive plan for protection, management, and use of seashore**

**(a) Contents; transmittal to Congressional committees**

Within two years of October 21, 1976, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives a comprehensive plan for the protection, management, and use of the seashore, to include but not be limited to the following considerations:

- (1) measures for the full protection and management of the natural resources and natural ecosystems of the seashore;
- (2) present and proposed uses of the seashore and the lands and waters adjacent or related thereto, the uses of which would reasonably be expected to influence the administration, use, and environmental quality of the seashore;
- (3) plans for the development of facilities necessary and appropriate for visitor use and enjoyment of the seashore, with identification of resource and user carrying capacities, along with the anticipated costs for all proposed development;
- (4) plans for visitor transportation systems integrated and coordinated with lands and facilities adjacent to, but outside of, the seashore; and
- (5) plans for fostering the development of cooperative agreements and land and resource use patterns outside the seashore which would be compatible with the protection and management of the seashore.

**(b) Consultation by other Federal agencies with Secretary**

Notwithstanding any other provision of law, no Federal loan, grant, license, or other form of assistance for any project which, in the opinion of the Secretary would significantly adversely affect the administration, use, and environmental quality of the seashore shall be made, issued, or approved by the head of any Federal agency without first consulting with the Secretary to determine whether or not such project is consistent with the plan developed pursuant to this section and allowing him at least thirty days to comment in writing on such proposed action.

(Pub. L. 89–195, §12, as added Pub. L. 94–578, title III, §301, Oct. 21, 1976, 90 Stat. 2733.)