

US Code

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TITLE 16 - CONSERVATION CHAPTER 2—NATIONAL FORESTS

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TITLE 16 - CONSERVATION	1
CHAPTER 2 - NATIONAL FORESTS	4
SUBCHAPTER I - ESTABLISHMENT AND ADMINISTRATION	9
§ 471. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792	9
§ 471a. Forest reserves in New Mexico and Arizona restricted	9
§ 471b. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792	9
§ 471c. Lands in California set aside as reserved forest lands	9
§ 471d. Additional forest reserves in California	10
§ 471e. Extension of boundaries of Sequoia National Forest	11
§ 471f. Cradle of Forestry in America in Pisgah National Forest; establishment; statement of purposes; publication in Federal Register	11
§ 471g. Administration, protection, and development; use of natural resources	11
§ 471h. Cooperation with public and private agencies, organizations, and individuals; acceptance of contributions and gifts	11
§ 471i. Pinelands National Reserve	12
§ 471j. Headwaters Forest and Elk River Property acquisition	19
§ 472. Laws affecting national forest lands	23
§ 472a. Timber sales on National Forest System lands	24
§ 473. Revocation, modification, or vacation of orders or proclamations establishing national forests	28
§ 474. Surveys; plats and field notes; maps; effect under Act June 4, 1897	29
§ 475. Purposes for which national forests may be established and administered	30
§ 476. Repealed. Pub. L. 94–588, § 13, Oct. 22, 1976, 90 Stat. 2958	30
§ 477. Use of timber and stone by settlers	31
§ 478. Egress or ingress of actual settlers; prospecting	31
§ 478a. Townsites	32
§ 479. Sites for schools and churches	32
§ 479a. Conveyance of National Forest System lands for educational purposes	33
§ 480. Civil and criminal jurisdiction	34
§ 481. Use of waters	34
§ 482. Mineral lands; restoration to public domain; location and entry	35
§ 482a. Mining rights in Prescott National Forest	35
§ 482b. Mount Hood National Forest; mining rights	36
§ 482c. Patents affecting forest lands	39
§ 482d. Perfection of claims within forest	40
§ 482e. Lincoln National Forest; mining rights	40
§ 482f. Patents affecting forest lands	41
§ 482g. Perfection of claims within forest	41
§ 482h. Coronado National Forest; mining rights	41
§ 482h–1. Protection of scenic values of forest	42
§ 482h–2. Cutting of timber; reservation of patent rights	42
§ 482h–3. Perfection of mining claims	43
§ 482i. Plumas National Forest; offer of lands; additions; mining rights	43
§ 482j. Santa Fe National Forest; mining rights; protection of scenic values	43
§ 482k. Patents affecting forest lands	44
§ 482l. Perfection of mining claims within forest	44
§ 482m. Teton National Forest in Wyoming; additional lands	44
§ 482n. Coconino National Forest; mining rights; protection of scenic values	45
§ 482n–1. Cutting of timber within forest; reservation of patent rights	46
§ 482n–2. Perfection of mining claims within forest	46

§ 482n-3. Sedona-Oak Creek area	46
§ 482o. Kaibab National Forest; mining rights; protection of scenic values	47
§ 482p. Patents affecting lands within forest	48
§ 482q. Perfection of mining claims within forest	48
§§ 483, 484. Repealed. Pub. L. 86-596, § 3, July 6, 1960, 74 Stat. 335	48
§ 484a. Exchange of lands in national forests; public schools; deposit of funds by school authority with insufficient exchange land; limitations on use	49
§ 485. Exchange of lands in national forests; cutting timber in national forests in exchange for lands therein	49
§ 485a. Omitted	50
§ 486. Exchange of lands in national forests; reservations of timber, minerals, or easements	50
§§ 486a to 486w. Omitted	51
§ 487. Cutting timber on land added to Siskiyou National Forest	53
§ 487a. Cutting timber on lands added to Rogue River National Forest	54
§ 488. Establishment of exterior boundaries of national forests	54
§ 489. Repealed. Pub. L. 87-869, § 5, Oct. 23, 1962, 76 Stat. 1157	55
§ 490. Deposits from timber purchasers to defray cost of disposing of debris	55
§ 491. Omitted	55
§ 492. Earth, stone, and timber for Departments of the Army and Navy, and Government works in Alaska	56
§ 493. Omitted	56
§ 494. Calaveras Bigtree National Forest	56
§ 495. Leases of lands for sanitariums or hotels	59
§ 496. Disposition of funds	59
§ 497. Use and occupation of lands for hotels, resorts, summer homes, stores, and facilities for industrial, commercial, educational or public uses	59
§ 497a. Occupancy and use under permit of lands in Alaska for various purposes; period of permit; size of allotment; prohibitions; termination	61
§ 497b. Ski area permits	61
§ 497c. Ski area permit rental charge	63
§ 497d. Recreation residence fees	66
§ 498. Cooperative work agreements: disposal of moneys received; refund of excess; payment from appropriation; conflict of interest	66
§ 499. Disposal of money received by or on account of Forest Service; refund of excess and moneys erroneously collected; receipts from permits	67
§ 500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments	68
§ 501. Expenditures from receipts for roads and trails; cooperation with State authorities; evaluation of receipts	72
§ 501a. Omitted	73
§ 502. Rental of property for Forest Service; forage, care, and housing of animals; storage of vehicles and other equipment; pack stock; loss, damage, or destruction of horses, vehicles, and other equipment	73
§ 503. Repealed. Pub. L. 85-767, § 2[1], Aug. 27, 1958, 72 Stat. 919	74
§ 503a. Omitted	74
§ 504. Purchases of tree seeds, cones, forage plant seed, and nursery stock for national forests	74
§ 504a. Sale of forest-tree seed and nursery stock to States and political subdivisions; disposition of moneys; exchanges; limitation	75

§ 505. Use of national forests established on land reserved for purposes of national defense; maintenance available	75
§ 505a. Interchange of lands between Department of Agriculture and military departments of Department of Defense; report to Congress	75
§ 505b. Laws applicable	76
§§ 506 to 508. Repealed. Pub. L. 87–869, § 4, Oct. 23, 1962, 76 Stat. 1157	76
§ 508a. Omitted	77
§ 508b. National forests in Minnesota; authority to prospect, develop, mine, remove, and utilize mineral resources	77
§ 509. Repealed. Pub. L. 87–869, § 4, Oct. 23, 1962, 76 Stat. 1157	77
§§ 510, 510a. Omitted	78
§ 511. Reinstatement of entries canceled or relinquished	78
§ 512. Omitted	78
§ 513. Repealed. Pub. L. 94–588, § 17(a)(1), (2), Oct. 22, 1976, 90 Stat. 2961	78
§ 514. Repealed. Pub. L. 94–588, § 17(a)(6), Oct. 22, 1976, 90 Stat. 2962	78
§ 515. Examination, location, and purchase of forested, cut-over, or denuded lands; consent of State legislature to acquisition of land by the United States	79
§ 516. Exchange of lands in the public interest; equal value; cutting and removing timber; publication of contemplated exchange	79
§ 517. Title to lands to be acquired	80
§ 517a. Payment of awards in condemnation proceedings	81
§ 518. Acquisition of lands not defeated by rights-of-way, easements, and reservations	81
§ 519. Agricultural lands included in tracts acquired; sale for homesteads	82
§ 519a. Transfer of forest reservation lands for military purposes	82
§ 520. Regulations as to mineral resources	83
§ 521. Lands acquired to be reserved, held, and administered as national forest lands; designation	83
§ 521a. Administration, management, and consolidation of certain lands	84
§ 521b. Report of Secretary of Agriculture prior to purchase or exchange of land; contents; waiting period	85
§ 521c. Definitions	85
§ 521d. Sale, exchange, or interchange of National Forest System land	85
§ 521e. Small parcels and road rights-of-way	86
§ 521f. Costs of conveyance and value of improvements	86
§ 521g. Road rights-of-way subject to State or local law	87
§ 521h. Regulations; contents	87
§ 521i. Unaffected lands	87
§ 522. Omitted	87
§ 523. Rights-of-way through national forests for power and communications facilities	87
§ 524. Rights-of-way for dams, reservoirs, or water plants for municipal, mining, and milling purposes	88
§ 525. Rights-of-way for wagon roads or railroads	89
§ 526. Establishment and protection of water rights	89
§ 527. Use of Forest Service funds for administration of certain lands	91
§ 528. Development and administration of renewable surface resources for multiple use and sustained yield of products and services; Congressional declaration of policy and purpose	91
§ 529. Authorization of development and administration consideration to relative values of resources; areas of wilderness	93
§ 530. Cooperation for purposes of development and administration with State and local governmental agencies and others	93

§ 531. Definitions	94
§ 532. Roads and trails system; Congressional findings and declaration of policy	94
§ 533. Grant of easements for road rights-of-way; authority of Secretary of Agriculture; regulations	94
§ 534. Termination and cancellation of easements; notice; hearing	95
§ 535. Forest development roads; acquisition, construction, and maintenance; maximum economy; methods of financing; cost arrangements for construction standards; transfer of unused effective purchaser credit for road construction	95
§ 535a. Forest development roads: prohibition on credits; inclusion of construction costs in notice of sale; special election by small business concerns; construction standards; authorization of harvesting; treatment of road value	96
§ 536. Recording of instruments; furnishing of instruments affecting public domain lands to Secretary of the Interior	98
§ 537. Maintenance and reconstruction by road users; funds for maintenance and reconstruction; availability of deposits until expended, transfer of funds, and refunds	98
§ 538. User fees fund for delayed payments to grantors	99
§ 539. Additions to existing national forests; administration	99
§ 539a. Mining and mineral leasing on certain national forest lands	100
§ 539b. Fisheries on national forest lands in Alaska	100
§ 539c. Cooperative fisheries planning; report to Congress	102
§ 539d. National forest timber utilization program	102
§ 539e. Reports	105
§ 539f. Nonprofit organization user of national forest lands	106
§ 539g. Kings River Special Management Area	106
§ 539h. Greer Spring Special Management Area	108
§ 539i. Fossil Ridge Recreation Management Area	109
§ 539j. Bowen Gulch Protection Area	110
§ 539k. Kelly Butte Special Management Area	111
§ 539l. Designation of James Peak Protection Area, Colorado	119
§ 539l-1. Inholdings	122
§ 539l-2. James Peak Fall River trailhead	124
§ 539l-3. Loop trail study; authorization	124
§ 539l-4. Other administrative provisions	125
§ 539l-5. Wilderness potential	125
§ 539m. Findings and purposes	126
§ 539m-1. Definitions	126
§ 539m-2. T'uf Shur Bien Preservation Trust Area	129
§ 539m-3. Pueblo rights and interests in the Area	131
§ 539m-4. Limitations on Pueblo rights and interests in the Area	132
§ 539m-5. Management of the Area	132
§ 539m-6. Jurisdiction over the Area	134
§ 539m-7. Subdivisions and other property interests	136
§ 539m-8. Extinguishment of claims	139
§ 539m-9. Construction	140
§ 539m-10. Judicial review	140
§ 539m-11. Provisions relating to contributions and land exchange	141
§ 539m-12. Authorization of appropriations	143
§ 539n. Crystal Springs Watershed Special Resources Management Unit	143
§ 539o. Ancient Bristlecone Pine Forest	146
SUBCHAPTER II - SCENIC AREAS	148
§ 541. Cascade Head Scenic-Research Area; establishment	148

§ 541a. Administration, protection, development, and regulation of use	148
§ 541b. Boundaries of scenic-research area; adjustments to subarea boundaries; development of management plan; establishment of subareas; management objectives	148
§ 541c. Extension of boundaries of Siuslaw National Forest; transfer of Federal property to Secretary	149
§ 541d. Acquisition of property within the scenic-research area; consent of owner; substantial change in use or maintenance of property	149
§ 541e. Availability of funds for acquisition of lands, etc., within added area	150
§ 541f. Withdrawal from location, entry and patent under mining laws; withdrawal from disposition under mineral leasing laws	150
§ 541g. Advisory council for scenic-research area; membership; designation of chairman; compensation; consultation by Secretary	150
§ 541h. Cooperation with State of Oregon in administration and protection of lands; civil and criminal jurisdiction; power of taxation	151
§ 542. Langmuir Research Site; establishment	151
§ 542a. Congressional findings	152
§ 542b. Administration, protection, and regulation of use	152
§ 542c. Land use agreement	152
§ 542d. Comprehensive management plan	152
§ 543. Mono Basin National Forest Scenic Area; establishment	153
§ 543a. Extension of National Forest boundary	154
§ 543b. Acquisition of lands	154
§ 543c. Administration	155
§ 543d. Ecological studies; reports to Congressional committees and to Chief of Forest Service; progress reports	158
§ 543e. Scenic Area Advisory Board	158
§ 543f. Traditional Native American uses	159
§ 543g. Authorization of appropriations	160
§ 543h. New spending authority	160
§ 544. Columbia River Gorge National Scenic Area; definitions	160
§ 544a. Purposes	162
§ 544b. Establishment of scenic area	162
§ 544c. Columbia River Gorge Commission	164
§ 544d. Scenic area management plan	166
§ 544e. Administration of scenic area	169
§ 544f. Administration of special management areas	170
§ 544g. Land acquisition	174
§ 544h. Interim management	180
§ 544i. Economic development	181
§ 544j. Old Columbia River Highway	182
§ 544k. Tributary rivers and streams	182
§ 544l. Implementation measures	183
§ 544m. Enforcement	187
§ 544n. Authorization of appropriations	189
§ 544o. Savings provisions	190
§ 544p. Severability	192
§ 545. Mount Pleasant National Scenic Area; purposes	192
§ 545a. Establishment of Mount Pleasant National Scenic Area	192
§ 545b. Opal Creek Wilderness and Scenic Recreation Area	194
§ 546. Establishment of Saint Helena Island National Scenic Area, Michigan	203
§ 546a. Boundaries	204

§ 546a-1. Administration and management	205
§ 546a-2. Fish and game	206
§ 546a-3. Minerals	206
§ 546a-4. Acquisition	206
§ 546a-5. Authorization of appropriations	206
§ 546b. Seng Mountain and Bear Creek Scenic Areas, Jefferson National Forest, Virginia	207
§ 546b-1. Maps and boundary descriptions	209

TITLE 16 CONSERVATION

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TITLE 16—CONSERVATION

Chap. ...Sec.

1. National Parks, Military Parks, Monuments, and Seashores ...1
 - 1A. Historic Sites, Buildings, Objects, and Antiquities ...461
 - 1B. Archaeological Resources Protection ...470aa
 - 1C. Paleontological Resources Preservation ...470aaa
2. National Forests ...471
3. Forests; Forest Service; Reforestation; Management ...551
 - 3A. Unemployment Relief Through Performance of Useful Public Work [Omitted or Repealed] ...584
 - 3B. Soil Conservation ...590a
 - 3C. Water Conservation ...590r
4. Protection of Timber, and Depredations ...591
5. Protection of Fur Seals and Other Fur-Bearing Animals ...631
 - 5A. Protection and Conservation of Wildlife ...661
 - 5B. Wildlife Restoration ...669
 - 5C. Conservation Programs on Government Lands ...670a
6. Game and Bird Preserves; Protection ...671
7. Protection of Migratory Game and Insectivorous Birds ...701
8. Upper Mississippi River National Wildlife and Fish Refuge ...721
9. Fish and Wildlife Service ...741
 - 9A. Preservation of Fishery Resources ...755
 - 9B. National Fish Hatchery System Enhancement ...760aa
 10. Northern Pacific Halibut Fishing ...761
 - 10A. Sockeye or Pink Salmon Fishing [Repealed] ...776
 - 10B. Fish Restoration and Management Projects ...777
 - 10C. Fish Research and Experimentation Program ...778
 - 10D. State Commercial Fisheries Research and Development Projects [Repealed] ...779
 11. Regulation of Landing, Curing, and Sale of Sponges Taken From Gulf of Mexico and Straits of Florida ...781
 12. Federal Regulation and Development of Power ...791
 - 12A. Tennessee Valley Authority ...831
 - 12B. Bonneville Project ...832
 - 12C. Fort Peck Project ...833
 - 12D. Columbia Basin Project ...835
 - 12E. Niagara Power Project ...836
 - 12F. Pacific Northwest Consumer Power Preference; Reciprocal Priority in Other Regions ...837
 - 12G. Pacific Northwest Federal Transmission System ...838
 - 12H. Pacific Northwest Electric Power Planning and Conservation ...839
 13. Regulation of Transportation in Interstate or Foreign Commerce of Black Bass and Other Fish [Repealed] ...851
 14. Regulation of Whaling ...901
 - 14A. Whale Conservation and Protection ...917
 15. Predatory Sea Lampreys in the Great Lakes [Omitted] ...921
 - 15A. Great Lakes Fisheries ...931
 - 15B. Great Lakes Fish and Wildlife Restoration ...941
 - 15C. Great Lakes Fish and Wildlife Tissue Bank ...943
 16. Tuna Conventions ...951
 - 16A. Atlantic Tunas Convention ...971
 - 16B. Eastern Pacific Tuna Fishing ...972
 - 16C. South Pacific Tuna Fishing ...973
 17. Northwest Atlantic Fisheries [Repealed] ...981
 18. Watershed Protection and Flood Prevention ...1001
 - 18A. Cooperative Watershed Management Program ...1015
 19. North Pacific Fisheries [Repealed or Transferred] ...1021
 20. National Fisheries Center and Aquarium ...1051
 21. Prohibition of Foreign Fishing Vessels in the Territorial Waters of the United States [Repealed] ...1081
 - 21A. Fisheries Zone Contiguous to Territorial Sea of the United States [Repealed] ...1091
 - 21B. Prohibition of Certain Foreign Fishing Vessels in United States Fisheries [Omitted] ...1100
 - 21C. Offshore Shrimp Fisheries [Omitted] ...1100b
 22. International Parks ...1101
 23. National Wilderness Preservation System ...1131
 24. Conservation and Protection of North Pacific Fur Seals ...1151
 25. Jellyfish or Sea Nettles, Other Such Pests, and Seaweed in Coastal Waters: Control or Elimination ...1201

TITLE 16 CONSERVATION

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- 25A. Crown of Thorns Starfish ...1211
- 25B. Reefs for Marine Life Conservation ...1220
- 26. Estuarine Areas ...1221
- 27. National Trails System ...1241
- 27A. National Recreational Trails Fund ...1261
- 28. Wild and Scenic Rivers ...1271
- 29. Water Bank Program for Wetlands Preservation ...1301
- 30. Wild Horses and Burros: Protection, Management, and Control ...1331
- 31. Marine Mammal Protection ...1361
- 32. Marine Sanctuaries ...1431
- 32A. Regional Marine Research Programs ...1447
- 33. Coastal Zone Management ...1451
- 34. Rural Environmental Conservation Program [Repealed] ...1501
- 35. Endangered Species ...1531
- 36. Forest and Rangeland Renewable Resources Planning ...1600
- 37. Youth Conservation Corps and Public Lands Corps ...1701
- 38. Fishery Conservation and Management ...1801
- 39. Mining Activity Within National Park System Areas ...1901
- 40. Soil and Water Resources Conservation ...2001
- 41. Cooperative Forestry Assistance ...2101
- 42. Emergency Conservation Program ...2201
- 43. Public Transportation Programs for National Park System Areas ...2301
- 44. Antarctic Conservation ...2401
- 44A. Antarctic Marine Living Resources Convention ...2431
- 44B. Antarctic Mineral Resources Protection ...2461
- 45. Urban Park and Recreation Recovery Program ...2501
- 46. Public Utility Regulatory Policies ...2601
- 47. Small Hydroelectric Power Projects ...2701
- 48. National Aquaculture Policy, Planning, and Development ...2801
- 49. Fish and Wildlife Conservation ...2901
- 50. Chesapeake Bay Research Coordination [Omitted] ...3001
- 51. Alaska National Interest Lands Conservation ...3101
- 52. Salmon and Steelhead Conservation and Enhancement ...3301
- 53. Control of Illegally Taken Fish and Wildlife ...3371
- 54. Resource Conservation ...3401
- 55. Coastal Barrier Resources ...3501
- 56. North Atlantic Salmon Fishing ...3601
- 56A. Pacific Salmon Fishing ...3631
- 57. National Fish and Wildlife Foundation ...3701
- 57A. Partnerships for Wildlife ...3741
- 57B. Partners for Fish and Wildlife ...3771
- 58. Erodible Land and Wetland Conservation and Reserve Program ...3801
- 59. Wetlands Resources ...3901
- 59A. Wetlands ...3951
- 60. Fish and Seafood Promotion ...4001
- 61. Interjurisdictional Fisheries ...4101
- 62. African Elephant Conservation ...4201
- 62A. Asian Elephant Conservation ...4261
- 63. Federal Cave Resources Protection ...4301
- 64. North American Wetlands Conservation ...4401
- 65. International Forestry Cooperation ...4501
- 66. Take Pride in America Program ...4601
- 67. Aquatic Nuisance Prevention and Control ...4701
- 68. Pacific Yew Conservation and Management [Omitted or Repealed] ...4801
- 69. Wild Exotic Bird Conservation ...4901
- 70. North Pacific Anadromous Stocks Convention ...5001
- 71. Atlantic Coastal Fisheries Cooperative Management ...5101
- 71A. Atlantic Striped Bass Conservation ...5151
- 72. Recreational Hunting Safety ...5201
- 73. Rhinoceros and Tiger Conservation ...5301
- 74. National Maritime Heritage ...5401
- 75. High Seas Fishing Compliance ...5501

TITLE 16 - CHAPTER 2 NATIONAL FORESTS

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- 76. Northwest Atlantic Fisheries Convention ...5601
- 77. Yukon River Salmon ...5701
- 78. National Natural Resources Conservation Foundation ...5801
- 79. National Park Service Management ...5901
- 80. Neotropical Migratory Bird Conservation ...6101
- 81. User Fees Under Forest System Recreation Residence Program ...6201
- 81A. National Forest Organizational Camp Fee Improvement ...6231
- 82. Great Ape Conservation ...6301
- 83. Coral Reef Conservation ...6401
- 84. Healthy Forest Restoration ...6501
- 85. Marine Turtle Conservation ...6601
- 86. Southwest Forest Health and Wildfire Prevention ...6701
- 87. Federal Lands Recreation Enhancement ...6801
- 88. Western and Central Pacific Fisheries Convention ...6901
- 89. Pacific Whiting ...7001
- 90. Secure Rural Schools and Community Self-Determination ...7101
- 91. National Landscape Conservation System ...7201
- 92. Forest Landscape Restoration ...7301

CHAPTER 2—NATIONAL FORESTS

SUBCHAPTER I—ESTABLISHMENT AND ADMINISTRATION

Sec.

- 471. Repealed.
- 471a. Forest reserves in New Mexico and Arizona restricted.
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- 481. Use of waters.
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- 482f. Patents affecting forest lands.
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- 482h-2. Cutting of timber; reservation of patent rights.
- 482h-3. Perfection of mining claims.
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- 482j. Santa Fe National Forest; mining rights; protection of scenic values.
- 482k. Patents affecting forest lands.
- 482l. Perfection of mining claims within forest.
- 482m. Teton National Forest in Wyoming; additional lands.
- 482n. Coconino National Forest; mining rights; protection of scenic values.
- 482n-1. Cutting of timber within forest; reservation of patent rights.
- 482n-2. Perfection of mining claims within forest.
- 482n-3. Sedona-Oak Creek area.

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- 505a. Interchange of lands between Department of Agriculture and military departments of Department of Defense; report to Congress.
- 505b. Laws applicable.
- 506 to 508a. Repealed or Omitted.
- 508b. National forests in Minnesota; authority to prospect, develop, mine, remove, and utilize mineral resources.
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- 512 to 514. Omitted or Repealed.

TITLE 16 - CHAPTER 2 NATIONAL FORESTS

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- 515. Examination, location, and purchase of forested, cut-over, or denuded lands; consent of State legislature to acquisition of land by the United States.
- 516. Exchange of lands in the public interest; equal value; cutting and removing timber; publication of contemplated exchange.
- 517. Title to lands to be acquired.
- 517a. Payment of awards in condemnation proceedings.
- 518. Acquisition of lands not defeated by rights-of-way, easements, and reservations.
- 519. Agricultural lands included in tracts acquired; sale for homesteads.
- 519a. Transfer of forest reservation lands for military purposes.
- 520. Regulations as to mineral resources.
- 521. Lands acquired to be reserved, held, and administered as national forest lands; designation.
- 521a. Administration, management, and consolidation of certain lands.
- 521b. Report of Secretary of Agriculture prior to purchase or exchange of land; contents; waiting period.
- 521c. Definitions.
- 521d. Sale, exchange, or interchange of National Forest System land.
- 521e. Small parcels and road rights-of-way.
- 521f. Costs of conveyance and value of improvements.
- 521g. Road rights-of-way subject to State or local law.
- 521h. Regulations; contents.
- 521i. Unaffected lands.
- 522. Omitted.
- 523. Rights-of-way through national forests for power and communications facilities.
- 524. Rights-of-way for dams, reservoirs, or water plants for municipal, mining, and milling purposes.
- 525. Rights-of-way for wagon roads or railroads.
- 526. Establishment and protection of water rights.
- 527. Use of Forest Service funds for administration of certain lands.
- 528. Development and administration of renewable surface resources for multiple use and sustained yield of products and services; Congressional declaration of policy and purpose.
- 529. Authorization of development and administration consideration to relative values of resources; areas of wilderness.
- 530. Cooperation for purposes of development and administration with State and local governmental agencies and others.
- 531. Definitions.
- 532. Roads and trails system; Congressional findings and declaration of policy.
- 533. Grant of easements for road rights-of-way; authority of Secretary of Agriculture; regulations.
- 534. Termination and cancellation of easements; notice; hearing.
- 535. Forest development roads; acquisition, construction, and maintenance; maximum economy; methods of financing; cost arrangements for construction standards; transfer of unused effective purchaser credit for road construction.
- 535a. Forest development roads: prohibition on credits; inclusion of construction costs in notice of sale; special election by small business concerns; construction standards; authorization of harvesting; treatment of road value.
- 536. Recording of instruments; furnishing of instruments affecting public domain lands to Secretary of the Interior.
- 537. Maintenance and reconstruction by road users; funds for maintenance and reconstruction; availability of deposits until expended, transfer of funds, and refunds.
- 538. User fees fund for delayed payments to grantors.
- 539. Additions to existing national forests; administration.
- 539a. Mining and mineral leasing on certain national forest lands.
- 539b. Fisheries on national forest lands in Alaska.
- 539c. Cooperative fisheries planning; report to Congress.
- 539d. National forest timber utilization program.
- 539e. Reports.

TITLE 16 - CHAPTER 2 NATIONAL FORESTS

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

- 539f. Nonprofit organization user of national forest lands.
- 539g. Kings River Special Management Area.
- 539h. Greer Spring Special Management Area.
- 539i. Fossil Ridge Recreation Management Area.
- 539j. Bowen Gulch Protection Area.
- 539k. Kelly Butte Special Management Area.
- 539l. Designation of James Peak Protection Area, Colorado.
 - 539l-1. Inholdings.
 - 539l-2. James Peak Fall River trailhead.
 - 539l-3. Loop trail study; authorization.
 - 539l-4. Other administrative provisions.
 - 539l-5. Wilderness potential.
- 539m. Findings and purposes.
 - 539m-1. Definitions.
 - 539m-2. T'uf Shur Bien Preservation Trust Area.
 - 539m-3. Pueblo rights and interests in the Area.
 - 539m-4. Limitations on Pueblo rights and interests in the Area.
 - 539m-5. Management of the Area.
 - 539m-6. Jurisdiction over the Area.
 - 539m-7. Subdivisions and other property interests.
 - 539m-8. Extinguishment of claims.
 - 539m-9. Construction.
 - 539m-10. Judicial review.
 - 539m-11. Provisions relating to contributions and land exchange.
 - 539m-12. Authorization of appropriations.
- 539n. Crystal Springs Watershed Special Resources Management Unit.
- 539o. Ancient Bristlecone Pine Forest.

SUBCHAPTER II—SCENIC AREAS

- 541. Cascade Head Scenic-Research Area; establishment.
 - 541a. Administration, protection, development, and regulation of use.
 - 541b. Boundaries of scenic-research area; adjustments to subarea boundaries; development of management plan; establishment of subareas; management objectives.
 - 541c. Extension of boundaries of Siuslaw National Forest; transfer of Federal property to Secretary.
 - 541d. Acquisition of property within the scenic-research area; consent of owner; substantial change in use or maintenance of property.
 - 541e. Availability of funds for acquisition of lands, etc., within added area.
 - 541f. Withdrawal from location, entry and patent under mining laws; withdrawal from disposition under mineral leasing laws.
 - 541g. Advisory council for scenic-research area; membership; designation of chairman; compensation; consultation by Secretary.
 - 541h. Cooperation with State of Oregon in administration and protection of lands; civil and criminal jurisdiction; power of taxation.
- 542. Langmuir Research Site; establishment.
 - 542a. Congressional findings.
 - 542b. Administration, protection, and regulation of use.
 - 542c. Land use agreement.
 - 542d. Comprehensive management plan.
- 543. Mono Basin National Forest Scenic Area; establishment.
 - 543a. Extension of National Forest boundary.
 - 543b. Acquisition of lands.

TITLE 16 - CHAPTER 2 - SUBCHAPTER I ESTABLISHMENT AND ADMINISTRATION

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- 543c. Administration.
- 543d. Ecological studies; reports to Congressional committees and to Chief of Forest Service; progress reports.
- 543e. Scenic Area Advisory Board.
- 543f. Traditional Native American uses.
- 543g. Authorization of appropriations.
- 543h. New spending authority.
- 544. Columbia River Gorge National Scenic Area; definitions.
 - 544a. Purposes.
 - 544b. Establishment of scenic area.
 - 544c. Columbia River Gorge Commission.
 - 544d. Scenic area management plan.
 - 544e. Administration of scenic area.
 - 544f. Administration of special management areas.
 - 544g. Land acquisition.
 - 544h. Interim management.
 - 544i. Economic development.
 - 544j. Old Columbia River Highway.
 - 544k. Tributary rivers and streams.
 - 544l. Implementation measures.
 - 544m. Enforcement.
 - 544n. Authorization of appropriations.
 - 544o. Savings provisions.
 - 544p. Severability.
- 545. Mount Pleasant National Scenic Area; purposes.
 - 545a. Establishment of Mount Pleasant National Scenic Area.
 - 545b. Opal Creek Wilderness and Scenic Recreation Area.
- 546. Establishment of Saint Helena Island National Scenic Area, Michigan.
 - 546a. Boundaries.
 - 546a-1. Administration and management.
 - 546a-2. Fish and game.
 - 546a-3. Minerals.
 - 546a-4. Acquisition.
 - 546a-5. Authorization of appropriations.
 - 546b. Seng Mountain and Bear Creek Scenic Areas, Jefferson National Forest, Virginia.
 - 546b-1. Maps and boundary descriptions.

SUBCHAPTER I—ESTABLISHMENT AND ADMINISTRATION

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§ 471. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, acts Mar. 3, 1891, ch. 561, § 24, 26 Stat. 1103; Mar. 4, 1907, ch. 2907, 34 Stat. 1271; June 25, 1910, ch. 421, § 2, 36 Stat. 847; Aug. 24, 1912, ch. 369, 37 Stat. 497; June 7, 1924, ch. 348, § 9 (first and fifth sentences), 43 Stat. 655, provided for establishment of national forests by the President, limited inclusion of lands in certain States, and authorized addition of lands suitable for production of timber.

Act Mar. 4, 1907, cited above, was not repealed by Pub. L. 94–579.

Effective Date of Repeal

Section 704(a) of Pub. L. 94–579 provided that this section is repealed effective on and after Oct. 21, 1976.

Savings Provision

Repeal by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

.....

§ 471a. Forest reserves in New Mexico and Arizona restricted

No forest reservation shall be created, nor shall any additions be made to one created prior to June 15, 1926, within the limits of the States of New Mexico and Arizona except by Act of Congress.

(June 15, 1926, ch. 587, 44 Stat. 745.)

References in Text

Forest reservation, referred to in text, probably should be “national forest”. See act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

.....

§ 471b. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, act July 20, 1939, ch. 334, § 1, 53 Stat. 1071, authorized addition of lands within State of Montana to existing or inclusion within new national forests.

Effective Date of Repeal

Section 704(a) of Pub. L. 94–579 provided that this section is repealed effective on and after Oct. 21, 1976.

Savings Provision

Repeal by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

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§ 471c. Lands in California set aside as reserved forest lands

The tracts of land in the State of California known and described as follows: Commencing at the northwest corner of township 2 north, range 19 east Mount Diablo meridian, thence eastwardly on the line between townships 2 and 3 north, ranges 24 and 25 east; thence southwardly on the line between ranges 24 and 25 east to the Mount Diablo base line; thence eastwardly on said base line to the corner to township 1 south, ranges 25 and 26 east; thence southwardly on the line between ranges 25 and 26 east to the southeast corner of township 2 south, range 25 east; thence eastwardly

TITLE 16 - Section 471d - Additional forest reserves in California

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on the line between townships 2 and 3 south, range 26 east to the corner to townships 2 and 3 south, ranges 26 and 27 east; thence southwardly on the line between ranges 26 and 27 east to the first standard parallel south; thence westwardly on the first standard parallel south to the southwest corner of township 4 south, range 19 east; thence northwardly on the line between ranges 18 and 19 east to the northwest corner of township 2 south, range 19 east; thence westwardly on the line between townships 1 and 2 south to the southwest corner of township 1 south, range 19 east; thence northwardly on the line between ranges 18 and 19 east to the northwest corner of township 2 north, range 19 east, the place of beginning, are reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and set apart as reserved forest lands; and all persons who shall locate or settle upon, or occupy the same or any part thereof, except as hereinafter provided, shall be considered trespassers and removed therefrom. Nothing in this section and sections 55, 61, and 471d of this title shall be construed as in anywise affecting any bona fide entry of land made within the limits above described under any law of the United States prior to October 1, 1890.

(Oct. 1, 1890, ch. 1263, § 1, 26 Stat. 650.)

Codification

Section was formerly set out as section 44 of this title. As originally enacted, this section contained two further provisions that “nothing in this act shall be construed as in any wise affecting the grant of lands made to the State of California by virtue of the act entitled ‘An act authorizing a grant to the State of California of the Yosemite Valley, and of the land’ embracing the Mariposa Big-Tree Grove, approved June thirtieth, eighteen hundred and sixty-four; or as affecting any bona-fide entry of land made within the limits above described under any law of the United States prior to the approval of this act.” The first quoted provision was omitted from the Code because the land, granted to the state of California pursuant to the Act cited, was receded to the United States. Resolution June 11, 1906, No. 27, accepted the recession.

.....

§ 471d. Additional forest reserves in California

There is reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and set apart as reserved forest lands, as provided in section 471c of this title, and subject to all the limitations and provisions therein contained, the following lands, to wit: Township 17 south, range 30 east of the Mount Diablo meridian, excepting sections 31, 32, 33, and 34 of said township, included in section 41 of this title. And there is also reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and set apart as forest lands, subject to like limitations, conditions, and provisions, all of townships 15 and 16 south, of ranges 29 and 30 east of the Mount Diablo meridian. And there is also reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and set apart as reserved forest lands under like limitations, restrictions, and provisions, sections 5 and 6 in township 14 south, range 28, east of Mount Diablo meridian, and also sections 31 and 32 of township 13 south, range 28 east of the same meridian. Nothing in this section or sections 55, 61, and 471c of this title, shall authorize rules or contracts touching the protection and improvement of said reservations, beyond the sums that may be received by the Secretary of the Interior under the foregoing provisions, or authorize any charge against the Treasury of the United States.

(Oct. 1, 1890, ch. 1263, § 3, 26 Stat. 651.)

Codification

Section was formerly classified to section 45 of this title.

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§ 471e. Extension of boundaries of Sequoia National Forest

Subject to existing valid claims, the boundaries of the Sequoia National Forest, California, be, and they are, extended to include the following described lands, which shall hereafter be subject to the laws, rules, and regulations relating to said national forest:

Southwest quarter, southwest quarter section 7; section 16 and section 17; east half northeast quarter, southwest quarter, northeast quarter, southeast quarter, northwest quarter, east half southeast quarter section 18; east half northwest quarter, northwest quarter northwest quarter, northeast quarter section 20; northwest quarter northwest quarter section 21; and tract numbered 48 in the southeast quarter section 28, all in township 21 south, range 31 east, of the Mount Diablo meridian in California.

(Dec. 9, 1942, ch. 712, 56 Stat. 1044.)

.....

§ 471f. Cradle of Forestry in America in Pisgah National Forest; establishment; statement of purposes; publication in Federal Register

In order to preserve, develop, and make available to this and future generations the birthplace of forestry and forestry education in America and to promote, demonstrate, and stimulate interest in and knowledge of the management of forest lands under principles of multiple use and sustained yield and the development and progress of management of forest lands in America, the Secretary of Agriculture is hereby authorized to establish the Cradle of Forestry in America in the Pisgah National Forest, North Carolina. As soon as possible after July 11, 1968, the Secretary of Agriculture shall publish notice of the designation thereof in the Federal Register together with a map showing the boundaries which shall be those shown on the map entitled “Cradle of Forestry in America” dated April 12, 1967, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(Pub. L. 90–398, § 1, July 11, 1968, 82 Stat. 342.)

.....

§ 471g. Administration, protection, and development; use of natural resources

The area designated as the Cradle of Forestry in America shall be administered, protected, and developed within and as a part of the Pisgah National Forest by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to national forests in such manner as in his judgment will best provide for the purposes of sections 471f to 471h of this title and for such management, utilization, and disposal of the natural resources as in his judgment will promote or is compatible with and does not significantly impair the purposes for which the Cradle of Forestry in America is established.

(Pub. L. 90–398, § 2, July 11, 1968, 82 Stat. 342.)

.....

§ 471h. Cooperation with public and private agencies, organizations, and individuals; acceptance of contributions and gifts

The Secretary of Agriculture is hereby authorized to cooperate with and receive the cooperation of public and private agencies and organizations and individuals in the development, administration,

and operation of the Cradle of Forestry in America. The Secretary of Agriculture is authorized to accept contributions and gifts to be used to further the purposes of sections 471f to 471h of this title.

(Pub. L. 90-398, § 3, July 11, 1968, 82 Stat. 342.)

.....

§ 471i. Pinelands National Reserve

(a) Congressional findings

The Congress finds that—

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

(b) Purposes

The purposes of this section are—

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

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

There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre area generally depicted on the map entitled "Pinelands National Reserve Boundary Map" numbered NPS/80,011A and dated September 1978. Within the Pinelands National Reserve, there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d) of this section, and in locations throughout the Pinelands National Reserve as determined by the planning entity.

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

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

(e) Planning entity consultations; public hearings

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

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

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

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

- (1) A resource assessment which:
 - (A) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to
 - (i) ground and surface water supply and quality;
 - (ii) natural hazards, including fire;
 - (iii) endangered, unique and unusual plants and animals and biotic communities;

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

(9) In conjunction with existing State programs and planning processes, a plan to implement the provisions of the Clean Water Act [33 U.S.C. 1251 et seq.] and the Safe Drinking Water Act [42 U.S.C. 300f et seq.] which pertain to the surface and ground waters of the Pinelands National Reserve.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) be made in a manner consistent with the requirements of the Land and Water Conservation Fund Act [16 U.S.C. 460l-4 et seq.];

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

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

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

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

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

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

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

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

(B) shall accept from the State those lands acquired pursuant to subsection (h)(1) of this section, which are identified in the management plan as being appropriate for Federal

ownership and management: Provided, That the Secretary shall reimburse to the State such sums as are necessary to

- (i) cover 100 percent of the original cost of acquisition as to each parcel of land so transferred and
- (ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) of this section not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

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

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

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

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

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

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

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

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

- (A) lands located within the preservation area of the National Reserve which is designated in the management plan;
- (B) lands that are within the areas protected by the management plan and that are threatened by adverse development or have critical ecological values; or
- (C) lands that have limited practical use because of their location in the Reserve and that are held by landowners who both own less than 50 acres in the Reserve and have exhausted existing remedies to secure relief.

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

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

(1) Study and recommendations for interpretative and educational program

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

(2) Items included

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

- (A) Interpretative and informational materials, exhibits, films, lectures, and other devices and educational methods.
- (B) A plan to provide for educational and interpretative programs for the Reserve, considering among other things the improvement of existing facilities and interpretative programs in the Reserve, including the possible use of existing facilities such as Whitesbog, Batsto, Double Trouble State Park and Stockton State College.
- (C) The use and enhancement of existing fire towers in the Reserve to serve as observation platforms.
- (D) The appropriate role for departments and agencies of the State of New Jersey and the Federal Government in implementing the program.

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

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

(4) Study of Municipal Council

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

(5) Contracts and agreements

The Secretary may enter into such contracts and agreements with the State of New Jersey and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. For purposes of this subsection, there is authorized to be appropriated not more than \$500,000 to prepare and complete the study pursuant to

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscript.html>).

paragraph (1) and \$3,000,000 to implement the recommendations of such study upon its approval by the Congress, the Federal share of which may not exceed 75 percent of the total cost.

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

References in Text

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

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

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

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

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

Amendments

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

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

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§ 471j. Headwaters Forest and Elk River Property acquisition

(a) Authorization

Subject to the terms and conditions of this section, up to \$250,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire lands referenced in the Agreement of September 28, 1996, which consist of approximately 4,500 acres commonly referred to as the “Headwaters Forest”, approximately 1,125 acres referred to as the “Elk Head Forest”, and approximately 9,600 acres referred to as the “Elk River Property”, which are located in Humboldt County, California. This section is the sole authorization for the acquisition of such property, which is the subject of the Agreement dated September 28, 1996 between the United States of America (hereinafter “United States”), the State of California, MAXXAM, Inc., and the Pacific Lumber Company. Of the entire Elk River Property, the United States and the State of California are to retain approximately 1,845 acres and transfer the remaining approximately 7,755 acres of Elk River Property to the Pacific Lumber Company. The property to be acquired and retained by the United States and the State of California is that property that is the subject of the Agreement of September 28, 1996 as generally depicted on maps labeled as sheets 1 through 7 of Township 3 and 4 North, Ranges 1 East and 1 West, of the Humboldt Meridian, California, titled “Dependent Resurvey and Tract Survey”, as approved by Lance J. Bishop, Chief Cadastral Surveyor—California, on August 29, 1997. Such maps shall be on file in the Office of the Chief Cadastral Surveyor, Bureau of Land Management, Sacramento, California. The Secretary of the Interior is authorized to make such typographical and other corrections to this description as are mutually agreed upon by the parties to the Agreement of September 28, 1996. The land retained by the United States and the State of California (approximately 7,470

acres) shall hereafter be the “Headwaters Forest”. Any funds appropriated by the Federal Government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per each acquisition shall be subject to specific authorization enacted subsequent to this Act, except that such funds may be used pursuant to existing authorities to acquire such lands up to five acres per each acquisition or interests in lands that may be necessary for roadways to provide access to the Headwaters Forest.

(b) Effective period of authorization

The authorization in subsection (a) of this section expires March 1, 1999 and shall become effective only—

- (1) when the State of California provides a \$130,000,000 contribution for the transaction;
- (2) when the State of California approves a Sustained Yield Plan covering Pacific Lumber Company timber property;
- (3) when the Pacific Lumber Company dismisses the following legal actions as evidenced by instruments in form and substance satisfactory to each of the parties to such legal actions: Pacific Lumber Co. v. United States, No. 96–257L (Fed. Cls.) and Salmon Creek Corp. v. California Board of Forestry, No. 96–CS–1057 (Cal. Super. Ct.);
- (4) when the incidental take permit under section 10(a) of the Endangered Species Act [16 U.S.C. 1539 (a)] (based upon a multispecies Habitat Conservation Plan covering Pacific Lumber Company timber property, including applicable portions of the Elk River Property) is issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service;
- (5) after an appraisal of all lands and interests therein to be acquired by the United States has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate;
- (6) after the Secretary of the Interior issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal Government. Such opinion of value shall also include the total value of all compensation (including tax benefits) proposed to be provided for the acquisition;
- (7) after an Environmental Impact Statement for the proposed Habitat Conservation Plan has been prepared and completed in accordance with the applicable provisions of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]; and
- (8) when adequate provision has been made for public access to the property.

(c) Acquisition

Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in subsection (a) of this section may differ from the value contained in the appraisal required by subsection (b)(5) of this section if the Secretary of the Interior certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) Habitat conservation plan

(1) Applicable standards

Within 60 days after November 14, 1997, the Secretary of the Interior and the Secretary of Commerce shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives on the scientific and legal standards and criteria for threatened, endangered, and candidate species under the Endangered Species Act [16 U.S.C. 1531 et seq.] and any other species used to develop the habitat conservation plan (hereinafter “HCP”) and the section 10 (a) [16 U.S.C. 1539 (a)] incidental take permit for the Pacific Lumber Company land.

(2) Report

If the Pacific Lumber Company submits an application for an incidental take permit under section 10(a) of the Endangered Species Act [16 U.S.C. 1539 (a)] for the transaction authorized by subsection (a) of this section, and the permit is not issued, then the United States Fish and Wildlife Service and the National Marine Fisheries Service shall set forth the substantive rationale or rationales for why the measures proposed by the applicant for such permit did not meet the issuance criteria for the species at issue. Such report shall be submitted to the Congress within 60 days of the decision not to issue such permit or by May 1, 1999, whichever is earlier.

(3) HCP standards

If a section 10 (a) permit for the Pacific Lumber Company HCP is issued, it shall be deemed to be unique to the circumstances associated with the acquisition authorized by this section and shall not establish a higher or lesser standard for any other multispecies HCPs than would otherwise be established under existing law.

(e) Payment to Humboldt County

Within 30 days of the acquisition of the Headwaters Forest, the Secretary of the Interior shall provide a \$10,000,000 direct payment to Humboldt County, California.

(f) Payment in lieu of taxes

The Federal portion of the Headwaters Forest acquired pursuant to this section shall be entitlement land under section 6905 of title 31.

(g) Out-year budget limitations

The following funding limitations and parameters shall apply to the Headwaters Forest acquired under subsection (a) of this section—

(1) At least 50 percent of the total funds for management of such lands above the annual level of \$100,000 shall (with the exception of law enforcement activities and emergency activities) be from non-Federal sources.

(2) Subject to appropriations, the authorized annual Federal funding for management of such land is \$300,000 (with the exception of law enforcement activities and emergency activities).

(3) The Secretary of the Interior or the Headwaters Forest Management Trust referenced in subsection (h) of this section is authorized to accept and use donations of funds and personal property from the State of California, private individuals, and other nongovernmental entities for the purpose of management of the Headwaters Forest.

(h) Headwaters Forest Management Trust

The Secretary of the Interior is authorized, with the written concurrence of the Governor of the State of California, to establish a Headwaters Forest Management Trust (“Trust”) for the management of the Headwaters Forest as follows:

(1) Management authority

The Secretary of the Interior is authorized to vest management authority and responsibility in the Trust composed of a board of five trustees each appointed for terms of three years. Two trustees shall be appointed by the Governor of the State of California. Three trustees shall be appointed by the President of the United States. The first group of trustees shall be appointed within 60 days of exercising the authority under this subsection and the terms of the trustees shall begin on such day. The Secretary of the Interior, the Secretary of Resources of the State of California, and the Chairman of the Humboldt County Board of Supervisors shall be nonvoting, ex officio members of the board of trustees. The Secretary is authorized to make grants to the Trust for the management of the Headwaters Forest from amounts authorized and appropriated.

(2) Operations

The Trust shall have the power to develop and implement the management plan for the Headwaters Forest.

(i) Management plan

(1) In general

A concise management plan for the Headwaters Forest shall be developed and periodically amended as necessary by the Secretary of the Interior in consultation with the State of California (and in the case that the authority provided in subsection (h) of this section is exercised, the trustees shall develop and periodically amend the management plan), and shall meet the following requirements:

(A) Management goals for the plan shall be to conserve and study the land, fish, wildlife, and forests occurring on such land while providing public recreation opportunities and other management needs.

(B) Before a management structure and management plan are adopted for such land, the Secretary of the Interior or the board of trustees, as the case may be, shall submit a proposal for the structure and plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The proposed management plan shall not become effective until the passage of 90 days after its submission to the Committees.

(C) The Secretary of the Interior or the board of trustees, as the case may be, shall report annually to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the House and Senate Committees on Appropriations concerning the management of lands acquired under the authority of this section and activities undertaken on such lands.

(2) Plan

The management plan shall guide general management of the Headwaters Forest. Such plan shall address the following management issues—

(A) scientific research on forests, fish, wildlife, and other such activities that will be fostered and permitted on the Headwaters Forest;

(B) providing recreation opportunities on the Headwaters Forest;

(C) access to the Headwaters Forest;

(D) construction of minimal necessary facilities within the Headwaters Forest so as to maintain the ecological integrity of the Headwaters Forest;

(E) other management needs; and

(F) an annual budget for the management of the Headwaters Forest, which shall include a projected revenue schedule (such as fees for research and recreation) and projected expenses.

(3) Compliance

The National Environmental Policy Act [42 U.S.C. 4321 et seq.] shall apply to the development and implementation of the management plan.

(j) Cooperative management

(1) The Secretary of the Interior may enter into agreements with the State of California for the cooperative management of any of the following: Headwaters Forest, Redwood National Park, and proximate State lands. The purpose of such agreements is to acquire from and provide to the State of California goods and services to be used by the Secretary and the State of California in cooperative management of lands if the Secretary determines that appropriations for that purpose are available and an agreement is in the best interests of the United States; and

(2) an assignment arranged by the Secretary under section 3372 of title 5 of a Federal or State employee for work in any Federal or State of California lands, or an extension of such assignment, may be for any period of time determined by the Secretary or the State of California, as appropriate, to be mutually beneficial.

(Pub. L. 105–83, title V, § 501, Nov. 14, 1997, 111 Stat. 1610.)

References in Text

This Act, referred to in subsec. (a), is Pub. L. 105–83, Nov. 14, 1997, 111 Stat. 1543, known as the Department of the Interior and Related Agencies Appropriations Act, 1998. For complete classification of this Act to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subsecs. (b)(7) and (i)(3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act, referred to in subsec. (d)(1), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Timing of Acquisitions

Pub. L. 105–83, title V, § 504, Nov. 14, 1997, 111 Stat. 1617, provided that: “The acquisitions authorized by sections 501 [16 U.S.C. 471j] and 502 [111 Stat. 1614] of this title may not occur prior to the earlier of: (1) 180 days after enactment of this Act [Nov. 14, 1997]; or (2) enactment of separate authorizing legislation that modifies section 501, 502, or 503 [111 Stat. 1616] of this title. Within 120 days of enactment, the Secretary of the Interior and the Secretary of Agriculture, respectively, shall submit to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, reports detailing the status of efforts to meet the conditions set forth in this title imposed on the acquisition of the interests to protect and preserve the Headwaters Forest and the acquisition of interests to protect and preserve Yellowstone National Park. For every day beyond 120 days after the enactment of this Act that the appraisals required in subsections [sic] 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources [now Committee on Natural Resources] of the House, the Committee on Energy and Natural Resources of the Senate and the House and Senate Committees on Appropriations in accordance with such subsections, the 180-day period referenced in this section shall be extended by one day.”

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§ 472. Laws affecting national forest lands

The Secretary of the Department of Agriculture shall execute or cause to be executed all laws affecting public lands reserved under the provisions of section 471¹ of this title, or sections supplemental to and amendatory thereof, after such lands have been so reserved, excepting such laws as affect the surveying, prospecting, locating, appropriating, entering, relinquishing, reconveying, certifying, or patenting of any of such lands.

Footnotes

¹ See References in Text note below.

(Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.)

References in Text

Section 471 of this title, referred to in text, was in the original a reference to section 24 of act Mar. 3, 1891, ch. 561, 26 Stat. 1103, and was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

Codification

Words “subject to the provisions for national forests established under subdivision (b) of section 471 of this title,” which had been inserted by the original codifiers of the 1926 ed. of the Code, have been omitted because of the repeal of section 471 of this title by Pub. L. 94–579.

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§ 472a. Timber sales on National Forest System lands

(a) Authorization; rules and regulations; appraised value as minimum sale price

For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) [16 U.S.C. 1600 et seq.], the Secretary of Agriculture, under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands.

(b) Designation on map; prospectus

All advertised timber sales shall be designated on maps, and a prospectus shall be available to the public and interested potential bidders.

(c) Terms and conditions of contract

The length and other terms of the contract shall be designed to promote orderly harvesting consistent with the principles set out in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended [16 U.S.C. 1604]. Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528–531]) will result, sales contracts shall be for a period not to exceed ten years: Provided, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser. The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more unless he finds

- (A) that the purchaser has diligently performed in accordance with an approved plan of operation or
- (B) that the substantial overriding public interest justifies the extension.

(d) Advertisement of sales; exceptions

The Secretary of Agriculture shall advertise all sales unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than \$10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement.

(e) Bidding methods; purposes; oral auction procedures; monitoring and enforcement for prevention of collusive practices

(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as “national forest materials”), the Secretary of Agriculture shall select the bidding method or methods which—

- (A) insure open and fair competition;
- (B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;
- (C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and
- (D) are consistent with the objectives of this Act and other Federal statutes.

The Secretary shall select or alter the bidding method or methods as he determines necessary to achieve the objectives stated in clauses (A), (B), (C), and (D) of this paragraph.

(2) In those instances when the Secretary selects oral auction as the bidding method for the sale of any national forest materials, he shall require that all prospective purchasers submit written sealed qualifying bids. Only prospective purchasers whose written sealed qualifying bids are equal to or in excess of the appraised value of such national forest materials may participate in the oral bidding process.

(3) The Secretary shall monitor bidding patterns involved in the sale of national forest materials. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

(A) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

(B) he may alter the bidding methods used within the affected area; and

(C) he shall take such other action as he deems necessary to eliminate such practices within the affected area.

(f) Research and demonstration projects

The Secretary of Agriculture, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or other forest products related to research and demonstration projects.

(g) Designation, marking, and supervision of harvesting; personnel

Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary of Agriculture. Such persons shall have no personal interest in the purchase or harvest of such products and shall not be directly or indirectly in the employment of the purchaser thereof.

(h) Utilization standards, methods of measurement, and harvesting practices; monetary deposits by purchasers of salvage harvests; nature, purposes and availability of designated fund; return of surplus to Treasury

The Secretary of Agriculture shall develop utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: Provided, That such deposits shall not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of this title: And provided further, That sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

(i) Purchaser credit for permanent road construction; right of election of small business concerns; estimated cost; date of completion; use of funds for construction; effective date

(1) For sales of timber which include a provision for purchaser credit for construction of permanent roads with an estimated cost in excess of \$20,000, the Secretary of Agriculture shall promulgate regulations requiring that the notice of sale afford timber purchasers qualifying as “small business concerns” under the Small Business Act, as amended [15 U.S.C. 631 et seq.], and the regulations issued thereunder, an estimate of the cost and the right, when submitting a bid, to elect that the Secretary build the proposed road.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

(2) If the purchaser makes such an election, the price subsequently paid for the timber shall include all of the estimated cost of the road. In the notice of sale, the Secretary of Agriculture shall set a date when such road shall be completed which shall be applicable to either construction by the purchaser or the Secretary, depending on the election. To accomplish requested work, the Secretary is authorized to use from any receipts from the sale of timber a sum equal to the estimate for timber purchaser credits, and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to construct a road that meets the standards specified in the notice of sale.

(3) The provisions of this subsection shall become effective on October 1, 1976.

(Pub. L. 94–588, § 14, Oct. 22, 1976, 90 Stat. 2958; Pub. L. 95–233, Feb. 20, 1978, 92 Stat. 32; Pub. L. 101–626, title I, § 105(a), Nov. 28, 1990, 104 Stat. 4427.)

References in Text

The Multiple-Use Sustained-Yield Act of 1960, referred to in subsecs. (a) and (c), is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (a), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

This Act, referred to in subsec. (e)(1)(D), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, known as the National Forest Management Act of 1976. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Small Business Act, referred to in subsec. (i)(1), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

Amendments

1990—Subsec. (i)(1). Pub. L. 101–626 struck out proviso that this subsec. not apply to sales of timber on National Forest System lands in the State of Alaska.

1978—Subsec. (e). Pub. L. 95–233 substituted provisions authorizing the Secretary of Agriculture to select bidding method or methods to achieve the purposes of par. (1) of this subsec., procedures for use of oral auction as the bidding method, and procedures for monitoring and enforcement to prevent collusive practices, for provisions authorizing the Secretary to take such action as deemed necessary to prevent collusive practices, and setting forth requirements for enforcement.

Application of Amendments by Pub. L. 101–626 to Certain Long-Term Timber Sale Contracts

Amendment by Pub. L. 101–626 not applicable to certain long-term timber sale contracts, see section 105(c) of Pub. L. 101–626, set out as a note under section 539d of this title.

Qualifying Timber Contract Options

Pub. L. 110–234, title VIII, § 8401, May 22, 2008, 122 Stat. 1300, and Pub. L. 110–246, § 4(a), title VIII, § 8401, June 18, 2008, 122 Stat. 1664, 2061, provided that:

“(a) Definitions.—In this section:

“(1) Authorized producer price index.—The term ‘authorized Producer Price Index’ includes—

“(A) the softwood commodity index (code number WPU 0811);

“(B) the hardwood commodity index (code number WPU 0812);

“(C) the wood chip index (code number PCU 3211133211135); and

“(D) any other subsequent comparable index, as established by the Bureau of Labor Statistics of the Department of Labor and utilized by the Secretary of Agriculture.

TITLE 16 - Section 472a - Timber sales on National Forest System lands

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(2) Qualifying contract.—The term ‘qualifying contract’ means a contract for the sale of timber on National Forest System land—

“(A) that was awarded during the period beginning on July 1, 2004, and ending on December 31, 2006;

“(B) for which there is unharvested volume remaining;

“(C) for which, not later than 90 days after the date of enactment of this Act [June 18, 2008], the timber purchaser makes a written request to the Secretary for one or more of the options described in subsection (b);

“(D) that is not a salvage sale;

“(E) for which the Secretary determines there is not an urgent need to harvest due to deteriorating timber conditions that developed after the award of the contract; and

“(F) that is not in breach or in default.

“(3) Secretary.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Chief of the Forest Service.

“(b) Options for Qualifying Contracts.—

“(1) Cancellation or rate redetermination.—Notwithstanding any other provision of law, if the rate at which a qualifying contract would be advertised as of the date of enactment of this Act [June 18, 2008] is at least 50 percent less than the sum of the original bid rates for all of the species of timber that are the subject of the qualifying contract, the Secretary may, at the sole discretion of the Secretary—

“(A) cancel the qualifying contract if the timber purchaser—

“(i) pays 30 percent of the total value of the timber remaining in the qualifying contract based on bid rates;

“(ii) completes each contractual obligation (including the removal of downed timber, the completion of road work, and the completion of erosion control work) of the timber purchaser with respect to each unit on which harvest has begun to a logical stopping point, as determined by the Secretary after consultation with the timber purchaser; and

“(iii) terminates its rights under the qualifying contract; or

“(B) modify the qualifying contract to redetermine the current contract rate of the qualifying contract to equal the sum obtained by adding—

“(i) 25 percent of the bid premium on the qualifying contract; and

“(ii) the rate at which the qualifying contract would be advertised as of the date of enactment of this Act [June 18, 2008].

“(2) Substitution of index.—

“(A) Substitution.—Notwithstanding any other provision of law, the Secretary may, at the sole discretion of the Secretary, substitute the Producer Price Index specified in the qualifying contract of a timber purchaser if the timber purchaser identifies—

“(i) the products the timber purchaser intends to produce from the timber harvested under the qualifying contract; and

“(ii) a substitute index from an authorized Producer Price Index that more accurately represents the predominant product identified in clause (i) for which there is an index.

“(B) Rate redetermination following substitution of index.—If the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract to provide for—

“(i) an emergency rate redetermination under the terms of the contract; or

“(ii) a rate redetermination under paragraph (1)(B).

“(C) Limitation on market-related contract term addition; periodic payments.—Notwithstanding any other provision of law, if the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract—

“(i) to adjust the term in accordance with the market-related contract term addition provision in the qualifying contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the adjustment, but only if the drastic reduction criteria in such section are met for 2 or more consecutive calendar year quarters beginning with the calendar quarter in which the Secretary substitutes the Producer Price Index under subparagraph (A); and

“(ii) to adjust the periodic payments required under the contract in accordance with applicable law and policies.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(3) Contracts using hardwood lumber index.—With respect to a qualifying contract using the hardwood commodity index referred to in subsection (a)(1)(B) for which the Secretary does not substitute the Producer Price Index under paragraph (2), the Secretary may, at the sole discretion of the Secretary—

“(A) extend the contract term for a 1-year period beginning on the current contract termination date; and

“(B) adjust the periodic payments required under the contract in accordance with applicable law and policies.

“(c) Extension of Market-Related Contract Term Addition Time Limit for Certain Contracts.—Notwithstanding any other provision of law, upon the written request of a timber purchaser, the Secretary may, at the sole discretion of the Secretary, modify a timber sale contract (including a qualifying contract) awarded to the purchaser before January 1, 2007, to adjust the term of the contract in accordance with the market-related contract term addition provision in the contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the modification, except that the Secretary may add no more than 4 years to the original contract length.

“(d) Effect of Options.—

“(1) No surrender of claims.—Operation of this section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose—

“(A) under a qualifying contract before the date on which the Secretary cancels the contract or redetermines the rate under subsection (b)(1), substitutes a Producer Price Index under subsection (b)(2), or modifies the contract under subsection (b)(3); or

“(B) under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (c).

“(2) Release of liability.—In the written request for any option provided under subsections (b) and (c), a timber purchaser shall release the United States from all liability, including further consideration or compensation, resulting from—

“(A) the cancellation of a qualifying contract of the purchaser or rate redetermination under subsection (b)(1), the substitution of a Producer Price Index under subsection (b)(2), the modification of the contract under subsection (b)(3) or a determination by the Secretary not to provide the cancellation, redetermination, substitution, or modification; or

“(B) the modification of the term of a timber sale contract (including a qualifying contract) of the purchaser under subsection (c) or a determination by the Secretary not to provide the modification.

“(3) Limitation.—Subject to subsection (b)(1)(A), the cancellation of a qualifying contract by the Secretary under subsection (b)(1) shall release the timber purchaser from further obligation under the canceled contract.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

Use of Receipts From Timber Sales for Road Construction

Pub. L. 99–500, § 101(h) [title II], Oct. 18, 1986, 100 Stat. 1783–242, 1783–271, and Pub. L. 99–591, § 101(h) [title II], Oct. 30, 1986, 100 Stat. 3341–242, 3341–271, provided that: “Notwithstanding any other provision of law, the Secretary of Agriculture is hereafter authorized to use from any receipts from the sale of timber a sum equal to the cost of construction of roads under the purchaser election program as described and authorized in section 14(i) of the National Forest Management Act of 1976 [16 U.S.C. 472a (i)].”

.....

§ 473. Revocation, modification, or vacation of orders or proclamations establishing national forests

The President of the United States is authorized and empowered to revoke, modify, or suspend any and all Executive orders and proclamations or any part thereof issued under section 471¹ of this title, from time to time as he shall deem best for the public interests. By such modification he may reduce the area or change the boundary lines or may vacate altogether any order creating a national forest.

Footnotes

¹ See References in Text note below.

(June 4, 1897, ch. 2, § 1, 30 Stat. 34, 36.)

References in Text

Section 471 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

Codification

The two sentences of this section are from provisions in section 1 of the Sundry Civil Appropriation Act for the fiscal year 1898, act June 4, 1897.

The first sentence is a portion of the third paragraph and was prefaced by the words “To remove any doubt which may exist pertaining to the authority of the President thereunto.” Other provisions of the same paragraph have been omitted as temporary.

The second sentence is a portion of the seventh paragraph the whole of which reads as follows: “The President is hereby authorized at any time to modify any Executive order that has been or may hereafter be made establishing any forest reserve, and by such modification may reduce the area or change the boundary lines of such reserve, or may vacate altogether any order creating such reserve.”

Short Title

Certain provisions of act June 4, 1897, ch. 2, 30 Stat. 34, under the headings “under the department of the interior.” and “surveying the public lands.”, which enacted sections 473 to 478, 479 to 482, and 551 of this title, are popularly known as the Organic Administration Act.

.....

§ 474. Surveys; plats and field notes; maps; effect under Act June 4, 1897

Surveys, field notes, and plats returned from the survey of public lands designated as national forests undertaken under the supervision of the Director of the United States Geological Survey in accordance with provisions of Act June 4, 1897, chapter 2, section 1, thirtieth Statutes, page 34, shall have the same legal force and effect as surveys, field notes, and plats returned through the Field Surveying Service; and such surveys, which include subdivision surveys under the rectangular system, approved by the Secretary of the Interior or such officer as he may designate as in other cases, and properly certified copies thereof shall be filed in the respective land offices of the districts in which such lands are situated, as in other cases. All laws inconsistent with the provisions hereof are declared inoperative as respects such survey. A copy of every topographic map and other maps showing the distribution of the forests, together with such field notes as may be taken relating thereto, shall be certified thereto by the Director of the Survey and filed in the Bureau of Land Management.

(June 4, 1897, ch. 2, § 1, 30 Stat. 34; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

References in Text

Act June 4, 1897, chapter 2, section 1, referred to in text, is act June 4, 1897, ch. 2, 30 Stat. 34. For classification of this Act to the Code, see Tables.

Change of Name

“United States Geological Survey” substituted in text for “Geological Survey” pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

Transfer of Functions

“Field Surveying Service” substituted in text for “office of surveyors-general” by act Mar. 3, 1925. Subsequently, the Service was abolished and its functions transferred to Secretary of the Interior by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“Secretary of the Interior or such officer as he may designate” substituted in text for “Commissioner of the General Land Office” on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

“Bureau of Land Management” substituted for “General Land Office” on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5. The “General Land Office” was abolished by Reorg. Plan No. 3 of 1946 with its functions consolidated with that of the Grazing Service to form a new agency in the Department of the Interior to be known as the Bureau of Land Management.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

.....

§ 475. Purposes for which national forests may be established and administered

All public lands designated and reserved prior to June 4, 1897, by the President of the United States under the provisions of section 471¹ of this title, the orders for which shall be and remain in full force and effect, unsuspended and unrevoked, and all public lands that may hereafter be set aside and reserved as national forests under said section, shall be as far as practicable controlled and administered in accordance with the following provisions. No national forest shall be established, except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions, or of said section, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes.

Footnotes

¹ See References in Text note below.

(June 4, 1897, ch. 2, § 1, 30 Stat. 34.)

References in Text

Section 471 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

Codification

“National forests” and “national forest” substituted in text for “public forest reserves” and “public forest reservation”, respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

.....

§ 476. Repealed. Pub. L. 94–588, § 13, Oct. 22, 1976, 90 Stat. 2958

Section, acts June 4, 1897, ch. 2, § 1, 30 Stat. 35; June 9, 1900, ch. 804, 31 Stat. 661; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628; June 30, 1906, ch. 3913, 34 Stat. 684; Mar. 3, 1925, ch. 457, § 3, 43 Stat. 1132; May 27, 1952, ch. 337, 66 Stat. 95, authorized the Secretary of Agriculture to sell timber from national forests. See section 472a of this title.

Validation of Timber Sales Contracts

Section 15 of Pub. L. 94–588 provided that:

“(a) Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this section [Oct. 22, 1976] shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sales procedures in effect at the time of the sale, subject to the provisions of subsection (b) of this section.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscp.html>).

“(b) The Secretary of Agriculture is directed, in developing five-year operating plans under the provisions of existing fifty-year timber sales contracts in Alaska, to revise such contracts to make them consistent with the guidelines and standards provided for in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended [16 U.S.C. 1600 et seq.], and to reflect such revisions in the contract price of timber. Any such action shall not be inconsistent with valid contract rights approved by the final judgment of a court of competent jurisdiction.”

.....

§ 477. Use of timber and stone by settlers

The Secretary of Agriculture may permit, under regulations to be prescribed by him, the use of timber and stone found upon national forests, free of charge, by bona fide settlers, miners, residents, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and other domestic purposes, as may be needed by such persons for such purposes; such timber to be used within the State or Territory, respectively, where such national forests may be located.

(June 4, 1897, ch. 2, § 1, 30 Stat. 35; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.)

Codification

“National forests” substituted in text for “reservations” on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Transfer of Functions

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 473, 474 to 482, and 551 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203 (a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d (f) of Title 15.

Act Feb. 1, 1905 transferred certain functions with regard to administration of public forests from Secretary of the Interior to Secretary of Agriculture.

.....

§ 478. Egress or ingress of actual settlers; prospecting

Nothing in sections 473 to 478, 479 to 482 and 551 of this title shall be construed as prohibiting the egress or ingress of actual settlers residing within the boundaries of national forests, or from crossing the same to and from their property or homes; and such wagon roads and other improvements may be constructed thereon as may be necessary to reach their homes and to utilize their property under such rules and regulations as may be prescribed by the Secretary of Agriculture. Nor shall anything in such sections prohibit any person from entering upon such national forests for all proper and lawful purposes, including that of prospecting, locating, and developing the mineral resources thereof. Such persons must comply with the rules and regulations covering such national forests.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.)

Codification

“National forests” substituted in text for “reservations” and “forest reservations” on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Transfer of Functions

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 473, 474 to 482, and 551 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203 (a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d (f) of Title 15.

Act Feb. 1, 1905, transferred certain functions with regard to administration of public forests from Secretary of the Interior to Secretary of Agriculture.

.....

§ 478a. Townsites

When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: Provided, however, That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands.

(Pub. L. 85-569, July 31, 1958, 72 Stat. 438; Pub. L. 94-579, title II, § 213, Oct. 21, 1976, 90 Stat. 2760.)

Codification

Section is also set out as section 1012a of Title 7, Agriculture.

Amendments

1976—Pub. L. 94-579 substituted provisions setting forth the procedures applicable to designation of townsites of tracts of National Forest System lands in Alaska or the eleven contiguous Western States for provisions setting forth the procedures applicable to designation of townsites from any national forest lands or lands administered by the Secretary of Agriculture under the Bankhead-Jones Farm Tenant Act.

Savings Provision

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

.....

§ 479. Sites for schools and churches

The settlers residing within the exterior boundaries of national forests, or in the vicinity thereof, may maintain schools and churches within such national forest, and for that purpose may occupy

any part of the said national forest, not exceeding two acres for each schoolhouse and one acre for a church.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36.)

Codification

“National forests” substituted in text for “forest reservations”, and “national forest” substituted for “reservation” and “forest reservation” on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

.....

§ 479a. Conveyance of National Forest System lands for educational purposes

(a) Authority to convey

Upon written application, the Secretary of Agriculture may convey National Forest System lands to a public school district for use for educational purposes if the Secretary determines that—

- (1) the public school district seeking the conveyance will use the conveyed land for a public or publicly funded elementary or secondary school, to provide grounds or facilities related to such a school, or for both purposes;
- (2) the conveyance will serve the public interest;
- (3) the land to be conveyed is not otherwise needed for the purposes of the National Forest System;
- (4) the total acreage to be conveyed does not exceed the amount reasonably necessary for the proposed use;
- (5) the land is to be used for an established or proposed project that is described in detail in the application to the Secretary, and the conveyance would serve public objectives (either locally or at large) that outweigh the objectives and values which would be served by maintaining such land in Federal ownership;
- (6) the applicant is financially and otherwise capable of implementing the proposed project;
- (7) the land to be conveyed has been identified for disposal in an applicable land and resource management plan under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and
- (8) an opportunity for public participation in a disposal under this section has been provided, including at least one public hearing or meeting, to provide for public comments.

(b) Acreage limitation

A conveyance under this section may not exceed 80 acres. However, this limitation shall not be construed to preclude an entity from submitting a subsequent application under this section for an additional land conveyance if the entity can demonstrate to the Secretary a need for additional land.

(c) Costs and mineral rights

- (1) A conveyance under this section shall be for a nominal cost. The conveyance may not include the transfer of mineral or water rights.
- (2) If necessary, the exact acreage and legal description of the real property conveyed under this section shall be determined by a survey satisfactory to the Secretary and the applicant. The cost of the survey shall be borne by the applicant.

(d) Review of applications

When the Secretary receives an application under this section, the Secretary shall—

- (1) before the end of the 14-day period beginning on the date of the receipt of the application, provide notice of that receipt to the applicant; and
- (2) before the end of the 120-day period beginning on that date—

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- (A) make a final determination whether or not to convey land pursuant to the application, and notify the applicant of that determination; or
- (B) submit written notice to the applicant containing the reasons why a final determination has not been made.

(e) Reversionary interest

If, at any time after lands are conveyed pursuant to this section, the entity to whom the lands were conveyed attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than the use for which the lands were conveyed, title to the lands shall revert to the United States.

(Pub. L. 106–577, title II, § 202, Dec. 28, 2000, 114 Stat. 3070.)

References in Text

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (a)(7), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

This section, referred to in subsec. (c)(2), was in the original “this title”, meaning title II of Pub. L. 106–577, Dec. 28, 2000, 114 Stat. 3070, which enacted this section and provisions set out as a note under this section. For complete classification of title II to the Code, see Short Title note below and Tables.

Short Title

Pub. L. 106–577, title II, § 201, Dec. 28, 2000, 114 Stat. 3070, provided that: “This title [enacting this section] may be cited as the ‘Education Land Grant Act’.”

.....

§ 480. Civil and criminal jurisdiction

The jurisdiction, both civil and criminal, over persons within national forests shall not be affected or changed by reason of their existence, except so far as the punishment of offenses against the United States therein is concerned; the intent and meaning of this provision being that the State wherein any such national forest is situated shall not, by reason of the establishment thereof, lose its jurisdiction, nor the inhabitants thereof their rights and privileges as citizens, or be absolved from their duties as citizens of the State.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36; Mar. 1, 1911, ch. 186, § 12, 36 Stat. 963.)

Codification

Provisions substantially in the language of this section are contained in section 12 of act Mar. 1, 1911, applicable to national forest lands acquired on the recommendation of the National Forest Reservation Commission under sections 500, 515 to 519, 521, 552 and 563 of this title.

“National forests” and “national forest” substituted in text for “forest reservations” and “reservation”, respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

.....

§ 481. Use of waters

All waters within the boundaries of national forests may be used for domestic, mining, milling, or irrigation purposes, under the laws of the State wherein such national forests are situated, or under the laws of the United States and the rules and regulations established thereunder.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36.)

Codification

“National forests” substituted in text for “reservations” and “forest reservations” on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

.....

§ 482. Mineral lands; restoration to public domain; location and entry

Upon the recommendation of the Secretary of the Interior, with the approval of the President, after sixty days’ notice thereof, published in two papers of general circulation in the State or Territory wherein any national forest is situated, and near the said national forest, any public lands embraced within the limits of any such forest which, after due examination by personal inspection of a competent person appointed for that purpose by the Secretary of the Interior, shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain. And any mineral lands in any national forest which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provisions contained in sections 473 to 478, 479 to 482 and 551 of this title.

(June 4, 1897, ch. 2, § 1, 30 Stat. 36.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

Codification

“National forest” substituted in text for “forest reservation” twice and “reservation” once, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Transfer of Functions

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 473, 474 to 482, and 551 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203 (a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d (f) of Title 15.

For transfer of certain functions with regard to the administration of national forests from Secretary of the Interior to Secretary of Agriculture, see section 472 of this title.

.....

§ 482a. Mining rights in Prescott National Forest

On and after January 19, 1933, mining locations made under the United States mining laws upon lands within the municipal watershed of the city of Prescott, within the Prescott National Forest in the State of Arizona, specifically described as the west half southwest quarter section 13; south half section 14; southeast quarter, and east half southwest quarter section 15; east half, and south half southwest quarter section 22; all of section 23; west half section 24; all of sections 26 and 27; north half north half section 34; and north half north half section 35, township 13 north, range 2 west, Gila and Salt River Base and meridian, an area of three thousand six hundred acres, more or less,

shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: Provided, however, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

On and after January 19, 1933, all patents issued under the United States mining laws affecting lands within the municipal watershed of the city of Prescott, within the Prescott National Forest, in the State of Arizona, shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

Valid mining claims within the municipal watershed of the city of Prescott, within the Prescott National Forest in the State of Arizona, existing on January 19, 1933, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under this section, or under the laws under which they were initiated, as the claimant may desire.

(Jan. 19, 1933, ch. 12, §§ 1-3, 47 Stat. 771.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482b. Mount Hood National Forest; mining rights

On and after May 11, 1934, mining locations made under the United States mining laws upon lands within the Mount Hood National Forest in the State of Oregon shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: Provided, however, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other

occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(May 11, 1934, ch. 280, § 1, 48 Stat. 773.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

Bull Run Watershed Management Unit

Pub. L. 95–200, Nov. 23, 1977, 91 Stat. 1425, as amended by Pub. L. 104–208, div. B, title VI, §§ 601 to 604, Sept. 30, 1996, 110 Stat. 3009–541; Pub. L. 104–333, div. I, title X, § 1026(a), Nov. 12, 1996, 110 Stat. 4228; Pub. L. 107–30, §§ 1, 2 (a), (c), Aug. 20, 2001, 115 Stat. 210, 211, provided that:

“preamble

“The Congress finds that an area of land in the State of Oregon known variously as the Bull Run National Forest and the Bull Run Forest Reserve is presently the source of the sole domestic water supply for the city of Portland, Oregon (hereinafter called the ‘city’) and other local governmental units and persons in the Portland metropolitan area, reserved for the city by a Presidential proclamation issued in 1892 and furnishing an extremely valuable resource of pure clear raw potable water, the continued production of which should be the principal management objective in the area hereinafter referred to as ‘the unit’; that the said area is now managed under terms of a Federal court decree issued pursuant to turn of the century law which does not appropriately address present and future needs and opportunities for the protection, management, and utilization of the resources contained therein.

“section 1. establishment of special resources management unit; definition of secretary

“(a) Definition of Secretary.—In this Act, the term ‘Secretary’ means—

“(1) with respect to land administered by the Secretary of Agriculture, the Secretary of Agriculture; and

“(2) with respect to land administered by the Secretary of the Interior, the Secretary of the Interior.

“(b) Establishment.—

“(1) In general.—There is established, subject to valid existing rights, a special resources management unit in the State of Oregon, comprising approximately 98,272 acres, as depicted on a map dated May 2000 and entitled ‘Bull Run Watershed Management Unit’.

“(2) Map.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of—

“(A) the Regional Forester-Pacific Northwest Region of the Forest Service; and

“(B) the Oregon State Director of the Bureau of Land Management.

“(3) Boundary adjustments.—The Secretary may periodically make such minor adjustments in the boundaries of the unit as are necessary, after consulting with the city and providing for appropriate public notice and hearings.

“management

“Sec. 2. (a) The unit and the renewable resources therein, shall be administered as a watershed by the Secretary in accordance with the laws, rules, and regulations applicable to land under the administrative jurisdiction of the Forest Service (in the case of land administered by the Secretary of Agriculture) or applicable to land under the administrative jurisdiction of the Bureau of Land Management (in the case of land administered by the Secretary of the Interior) except to the extent that any management plan or practice is found by the Secretary to have a significant adverse effect on compliance with the water quality standards referred to in section 2 (c) hereof or on the quantity of the water produced thereon for the use of the city, and other local government units and persons using such water under agreements with the city (and the Secretary shall take into consideration the cumulative effect of individually insignificant degradations), in which case, and notwithstanding any other provision of law, the management plan and all relevant leases, permits, contracts, rights-of-way, or other rights or authorizations issued pursuant thereto shall forthwith be altered by the Secretary to eliminate such adverse effect by application of different techniques or prohibitions of one or more such practices or uses: Provided, however, That use of such water for the production of energy and the transmission of such energy through and over the unit are deemed consistent with the purposes of this Act and the rights-of-way heretofore granted to Bonneville Power Administration by the Forest Service through and over the unit are validated and confirmed and deemed consistent with the purposes of this Act.

TITLE 16 - Section 482b - Mount Hood National Forest; mining rights

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“(b) Timber Cutting.—

“(1) In general.—Subject to paragraph (2), the Secretary shall prohibit the cutting of trees on Federal land in the unit, as designated in section 1 and depicted on the map referred to in that section.

“(2) Permitted cutting.—

“(A) In general.—Subject to subparagraph (B), the Secretary shall prohibit the cutting of trees in the area described in paragraph (1).

“(B) Permitted cutting.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in paragraph (1)—

“(i) for the protection or enhancement of water quality in the area described in paragraph (1); or

“(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in paragraph (1); or

“(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

“(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

“(C) Salvage sales.—The Secretary may not authorize a salvage sale in the area described in paragraph (1).

“(c) The policy set forth in subsections (a) and (b) shall be attained through the development, maintenance, and periodic revision of land management plans in accordance with procedures set forth in section 5 [6] of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477, as amended; 16 U.S.C. 1604) (in the case of land administered by the Secretary of Agriculture) or section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) (in the case of land administered by the Secretary of the Interior), through the maintenance of systems for monitoring and evaluating water quality, and through supporting scientific research as the Secretary may deem necessary after consultation and in coordination with the city. In the development and revision of land management plans for the unit, the Secretary, except as otherwise provided in section 2 (a) hereof, shall provide for public participation and shall consult and coordinate with appropriate officials and advisors of the city, and shall consider such data and research as the city may collect through its own monitoring systems and scientific efforts, if any. Such plans shall be prepared by an interdisciplinary team; be embodied in appropriate written material, including maps and other descriptive documents; shall contain water quality standards developed by the Secretary after consultation and in cooperation with the city, which standards shall be substantially based on and shall reflect a quality of water not significantly less than the quality reflected by percentile curves developed from data collected from 1967 through 1975 and, if none, from data collected in the first three years of record thereafter; and be available to the public at convenient locations. The initial plan or plans shall be completed as soon as practicable after the enactment of this Act [Nov. 23, 1977], but not later than September 30, 1979. Current data shall be compared to historical data at least annually for the purpose of determining compliance with the standards and the significance of any deviation therefrom. Deviations occurring from operation, maintenance, alteration, or construction of water storage, or electrical generation and transmission facilities, seasonal fluctuations, variations in climate, and other natural phenomena, fire, or acts of God, shall not be considered in determining the historical or current percentile curves.

“(d) The Secretary or his representative shall, upon request, and at least annually, meet with appropriate officials of the city for the purpose of reviewing planned management programs and the impact thereof on the quality and quantity of the water produced on the unit and assuring that their respective management and operational activities within the unit are appropriately coordinated. The Secretary shall negotiate in good faith cooperative agreements with appropriate officials of the city to effectuate activity coordination.

“(e) In the event there is disagreement between the city and the Secretary with respect to the development or revision of the water quality standards provided for herein, or with respect to the effect or the significance of such effect of one or more proposed or existing programs, practices, uses, regulations, or boundary adjustments (except as otherwise specifically provided for herein), on the quantity of the water produced on said unit, or on compliance with the water quality standards referred to in section 2 (a) and (b) [now (c)] hereof and, therefore, with respect to the necessity for an alteration or prohibition of any such program, practice, use, regulation, or boundary adjustment as required in section 2 (a) hereof, an arbitration board for resolving such disagreements shall be established. The Secretary and the city shall, each, forthwith appoint one member to such board and those two members shall select a third. In the event agreement cannot be reached on the third member within seven days after the appointment of the first two, the third member shall be appointed by the presiding judge of the United States District Court for the District of Oregon within seven days after being notified of such disagreement by either of the first two members. All of said members shall be qualified to make a scientific determination of the facts. The contentions of the city and the Secretary shall be submitted to the board in the form of written contentions of fact together with the evidence and analysis that tends to support the position being presented. The board shall forthwith consider and decide, on a scientific basis, the issues in disagreement by majority vote, taking into consideration the evidence and data presented by the parties and such

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other tests and data which the board by majority vote may require. The decision of such board shall be in the form of written findings of fact and conclusions based thereon and shall be final and binding on the parties. The Secretary and the city shall compensate their designees and share equally the compensation of the third member, and shall provide such technical and administrative support as required.

“(f) The Secretary is authorized, after consultation with the city, to promulgate regulations for controlling entry into the unit by all persons including but not limited to—

“(1) employees or contractors of the city engaged in the inspection, maintenance, construction, or improvement of the city’s facilities;

“(2)(i) Federal, State, and local government officers and (ii) employees thereof acting in an official capacity;

“(3) Federal, State, and local government permittees and contractors conducting authorized activities;

“(4) members of advisory groups formed pursuant to this Act or ordinances of the city in the performance of their official duties:

Provided, That no regulation promulgated pursuant to this subsection shall prohibit ingress or egress to non-Federal lands or to authorized occupancies on, or uses of, Federal lands: Provided further, That the Secretary may independently and directly prohibit or restrict all entry into the unit during fire or other emergencies as he may determine.

“effect on other laws

“Sec. 3. (a) Nothing in this Act shall terminate or affect any lease, permit, contract, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act [Nov. 23, 1977] and otherwise valid except for the provisions of section 1862 of title 18 of the United States Code.

“(b) Nothing in this Act shall in any way affect any law governing appropriation or use of, or Federal right to, water on National Forest System lands; or as expanding or diminishing Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control.

“(c) Section 1862 of title 18 of the United States Code is hereby repealed.

“(d) Except as otherwise provided for herein, this Act shall take precedence over and supersede all State and local laws dealing with or affecting the subject matter of this Act.

“(e) Challenge to actions taken by any governmental unit or official under the provisions of this Act shall not be sustained by any court except upon a showing of arbitrary, unreasonable, capricious, or illegal action or an absence of substantial good faith compliance with the procedural provisions hereof substantially prejudicing the rights of an interested party.”

.....

§ 482c. Patents affecting forest lands

On and after May 11, 1934, all patents issued under the United States mining laws affecting lands within the Mount Hood National Forest within the State of Oregon shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the timber therefrom as may be needed in extracting and removing the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Forest Service.

(May 11, 1934, ch. 280, § 2, 48 Stat. 773.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482d. Perfection of claims within forest

Valid mining claims within the Mount Hood National Forest in the State of Oregon existing on May 11, 1934, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Oregon, may be perfected under sections 482b and 482c of this title, or under the law under which they were initiated, as the claimant may desire.

(May 11, 1934, ch. 280, § 3, 48 Stat. 773.)

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§ 482e. Lincoln National Forest; mining rights

On and after June 13, 1939, mining locations made under the United States mining laws upon lands within the watershed of the headwaters of the Bonito River in the Lincoln National Forest within the State of New Mexico, specifically described as those certain pieces or parcels of land situate, lying, and being in the county of Lincoln, State of New Mexico, described as follows:

The east half east half section 12, east half east half section 13, east half northeast quarter section 24, township 10 south, range 10 east, New Mexico principal meridian; southeast quarter section 25, southwest quarter section 26, south half section 27, southeast quarter and south half southwest quarter section 28, southeast quarter section 31, and all of sections 32, 33, 34, 35, and 36, township 9 south, range 11 east, New Mexico principal meridian; all of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 27, 28, and 29, north half section 19, north half and southwest quarter section 24, northwest quarter section 26, north half northeast quarter section 32, and north half north half section 33, township 10 south, range 11 east, New Mexico principal meridian; southwest quarter section 25, south half of fractional section 26, all of fractional section 35, and all of section 36, township 9 south, range 12 east, New Mexico principal meridian; all of section 1, all of fractional section 2, all of fractional section 11, all of section 12, all of section 13, all of fractional section 14, north half of fractional section 23, and north half section 24, township 10 south, range 12 east, New Mexico principal meridian; having an area of approximately thirty-nine and three hundred and seventy-six one-thousandths square miles, shall confer on the locator the right to occupy and use only so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: Provided, however, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(June 13, 1939, ch. 201, § 1, 53 Stat. 817.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482f. Patents affecting forest lands

On and after June 13, 1939, all patents issued under the United States mining laws affecting lands within the watershed of headwaters of the Bonito River in the Lincoln Forest, in the State of New Mexico, shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing the mineral deposits, if the timber is removed in accordance with the rules for timber cutting on adjoining national-forest land, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

(June 13, 1939, ch. 201, § 2, 53 Stat. 818.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482g. Perfection of claims within forest

Valid mining claims within the watershed of the headwaters of the Bonito River in the Lincoln National Forest, within the State of New Mexico, as above described, existing on June 13, 1939, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of New Mexico, may be perfected under sections 482e and 482f of this title, or under the laws under which they were initiated, as the claimant may desire.

(June 13, 1939, ch. 201, § 3, 53 Stat. 818.)

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§ 482h. Coronado National Forest; mining rights

On and after March 15, 1940, mining locations made under the mining laws of the United States upon lands within four hundred feet of the center line of the Catalina Highway, Coronado National Forest, Arizona, which highway begins at the south boundary of said national forest near the southeast corner of section 7, township 13 south, range 16 east, Gila and Salt River base and meridian, and runs in a general northerly direction for a distance of about twenty-five miles to Soldier Camp, shall confer on the locator no right to the surface of the land described in his location other than the right to occupy and use, under the rules and regulations relating to the administration of the Coronado National Forest, so much thereof as may be reasonably necessary to carry on prospecting and mining, and shall not authorize the taking of any resource other than the mineral deposits, or the occupancy of said land for any purpose other than prospecting and mining; and each patent issued thereafter under the United States mining laws upon a mineral location made upon lands within four hundred feet of said center line shall convey title only to the mineral deposits within said land and the right, subject to rules and regulations relating to the national forests, to occupy and use the surface of the land for prospecting and mining only: Provided, That valid mining claims within said lands existing on March 15, 1940, and thereafter maintained in compliance with the laws under which they were initiated and the laws of the State of Arizona may be perfected in accordance with the laws under which they were initiated.

(Mar. 15, 1940, ch. 59, 54 Stat. 52.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482h–1. Protection of scenic values of forest

On and after June 11, 1946, mining locations made under mining laws of the United States within the following-described lands within the Coronado National Forest, Pima County, Arizona: Sections 25, 26, 35, and 36, and the east half of section 34, township 11 south, range 15 east; sections 30, 31, 32, and 33, and the west half of section 29, township 11 south, range 16 east; sections 1, 2, and 3, township 12 south, range 15 east; sections 3, 4, 5, 6, 7, 8, 9, 10, 15, and 16, the west half of section 11, the west half of section 14, and the northwest quarter of section 23, township 12 south, range 16 east; Gila and Salt River base and meridian, shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting, mining, and beneficiation of ores including the taking of mineral deposits and timber required by or in the mining and ore reducing operations, and no permit shall be required or charge made for such use or occupancy: Provided, however, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(June 11, 1946, ch. 377, § 1, 60 Stat. 254.)

References in Text

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482h–2. Cutting of timber; reservation of patent rights

On and after June 11, 1946, all patents issued under the United States mining laws affecting lands within the above-described area shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

(June 11, 1946, ch. 377, § 2, 60 Stat. 255.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482h-3. Perfection of mining claims

Valid mining claims within the said lands, existing on June 11, 1946, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under sections 482h-1 to 482h-3 of this title, or under the laws under which they were initiated, as the claimant may desire.

(June 11, 1946, ch. 377, § 3, 60 Stat. 255.)

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§ 482i. Plumas National Forest; offer of lands; additions; mining rights

Within the following-described areas any lands not in Government ownership which are found by the Secretary of Agriculture to be chiefly valuable for national-forest purposes may be offered in exchange under the provisions of sections 485 and 486 of this title, upon notice as therein provided and upon acceptance of title, shall become parts of the Plumas National Forest; and any of such described areas in Government ownership found by the Secretaries of Agriculture and the Interior to be chiefly valuable for national-forest purposes and not now parts of any national forest may be added to said national forest as herein provided by proclamation of the President, subject to all valid claims and provisions of existing withdrawals: Provided, That any lands received in exchange under the provisions of this section shall be open to mineral locations, mineral development, and patent in accordance with the mining laws of the United States:

Township 18 north, range 7 east, Mount Diablo base and meridian, California: Sections 3, 4, 5, 9, 10, 11, 12, 13, 15, 22, 23, 26, and 27.

(June 5, 1942, ch. 334, 56 Stat. 311.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482j. Santa Fe National Forest; mining rights; protection of scenic values

On and after June 10, 1949, mining locations made under mining laws of the United States within the following-described lands within the Santa Fe National Forest, Santa Fe, New Mexico: Sections 1, 2, 3, the northeast quarter of section 11 and the north half of section 12, in surveyed township 17 north, range 10 east; sections 12, 13, 14, 15, 16, 36, and that portion of section 25, outside the boundaries of the Gabaldon Grant in surveyed township 18 north, range 10 east; three thousand eight hundred and forty acres, more or less, in unsurveyed township 18 north, range 11 east, expected to be legally described, when surveyed, as sections 7, 8, 18, 19, and 30, the northeast quarter of section 17, the west half of section 17 and the west half of section 20, township 18 north, range 11 east, New Mexico principal meridian, shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting, mining, and beneficiation of ores including the taking of mineral deposits and timber required by or in the mining and ore reducing operations, and no permit shall be required or charge made for such use or occupancy: Provided, however, That the cutting and removal of

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timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(June 10, 1949, ch. 190, § 1, 63 Stat. 168.)

References in Text

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482k. Patents affecting forest lands

On and after June 10, 1949, all patents issued under the United States mining laws affecting lands within the above-described area shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

(June 10, 1949, ch. 190, § 2, 63 Stat. 168.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482l. Perfection of mining claims within forest

Valid mining claims within the said lands, existing on June 10, 1949, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of New Mexico, may be perfected under sections 482j to 482l of this title, or under the laws under which they were initiated, as the claimant may desire.

(June 10, 1949, ch. 190, § 3, 63 Stat. 169.)

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§ 482m. Teton National Forest in Wyoming; additional lands

The following-described lands of the Jackson Hole National Monument are made a part of the Teton National Forest and shall be administered hereafter in accordance with the laws applicable to said forest:

sixth principal meridian

Township 45 north, range 113 west: Section 21, lot 5; section 22, lots 2 and 6; section 23, lot 3; section 26, lots 2, 3, 6, 7, southwest quarter northwest quarter, southwest quarter and southwest quarter southeast quarter; section 27, lots 1, 2, 4, 6, 7, 8, 9, southeast quarter northeast quarter and south half; section 28, lot 1, southeast quarter northeast quarter and east half southeast quarter; section 29, lots 2, 4, 5, 6, 8, southwest quarter northeast quarter, northwest quarter southeast quarter, south half northwest quarter, and north half southwest quarter; section 30, lot 7, south half northeast quarter, north half southeast quarter and southeast quarter southeast quarter; section 31, lots 1 and 2; section 32, lots 2 and 5; section 33, east half northeast quarter and northeast quarter southeast quarter; section 34, north half and north half south half; section 35, north half, containing in all two thousand eight hundred six and thirty-four one-hundredths acres, more or less.

(Sept. 14, 1950, ch. 950, § 3, 64 Stat. 850.)

References in Text

The Jackson Hole National Monument, referred to in text, was created in Wyoming by Presidential Proc. No. 2578, Mar. 15, 1943, 57 Stat. 731. For provisions transferring other lands of such former national monument, see sections 406d-1 and 673b of this title.

Revocation of Temporary Withdrawals of Public Lands

Revocation of temporary withdrawals of public lands in aid of legislation pertaining to parks, monuments, etc., adjacent to Grand Teton National Park in Wyoming, see note under section 406d-1 of this title.

Repeal of Inconsistent Laws

Repeal of laws inconsistent with act Sept. 14, 1950, see note set out under section 406d-1 of this title.

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§ 482n. Coconino National Forest; mining rights; protection of scenic values

On and after May 24, 1949, mining locations made under the mining laws of the United States within the following-described lands within the Coconino National Forest, Coconino County, Arizona: Sections 14, 15, 19, 20, 22, 27, 28, 29, 34, of township 19 north, range 6 east; and sections 4, 5, 8, 9, 16, 17, 20, 21, 22, 27, 28, 33, and 34 of township 18 north, range 6 east; and sections 1, 2, 3, 4, southeast quarter of section 8, sections 9, 10, 11, and 12, of township 17 north, range 6 east; Gila and Salt River base and meridian, shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting, mining, and beneficiation of ores including the taking of mineral deposits and timber required by or in the mining and ore reducing operations, and no permit shall be required or charge made for such use or occupancy: Provided, however, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(May 24, 1949, ch. 136, § 1, 63 Stat. 75.)

References in Text

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482n-1. Cutting of timber within forest; reservation of patent rights

On and after May 24, 1949, all patents issued under the United States mining laws affecting lands within the above-described area shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

(May 24, 1949, ch. 136, § 2, 63 Stat. 75.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482n-2. Perfection of mining claims within forest

Valid mining claims within the said lands, existing on May 24, 1949, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under sections 482n to 482n-3 of this title, or under the laws under which they were initiated, as the claimant may desire.

(May 24, 1949, ch. 136, § 3, 63 Stat. 76.)

References in Text

May 24, 1949, referred to in text, was in the original "the date of enactment of this Act". The date thus referred to is deemed to relate to the date of enactment of section 482n-3 of this title, May 19, 1955, as applied to any land described in section 482n-3 of this title.

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§ 482n-3. Sedona-Oak Creek area

The provisions of sections 482n to 482n-2 of this title are extended to the following-described lands within the Coconino National Forest, Coconino and Yavapai Counties, Arizona:

Sections 8, 9, 10, 15, 16, 17, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and the southwest quarter of section 25, township 18 north, range 4 east;

Sections 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 36, and the east half of the east half of section 29, township 18 north, range 5 east;

Sections 18, 19, 29, 30, 31, and 32, township 18 north, range 6 east;

Sections 1 to 36, inclusive, township 17 north, range 5 east;

Sections 5, 6, 7, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and all of section 8 except the southeast quarter, township 17 north, range 6 east;

Sections 11, 12, 13, 14, 23, and 24, township 16 north, range 5 east.

Sections 7, 8, 9, 10, 16, 17, 18, 19, and 20, township 16 north, range 6 east, Gila and Salt River Base and meridian: Provided, however, That as applied to any lands described in this section, the word “hereinafter” in sections 482n and 482n–1 of this title and the words “date of the enactment of this Act” in section 482n–2 of this title, shall be deemed to relate to the date of the enactment of this section.

(May 24, 1949, ch. 136, § 4, as added May 19, 1955, ch. 42, 69 Stat. 50.)

References in Text

The words “date of the enactment of this Act” as relating to section 482n–2 of this title changed to “May 24, 1949”, for purposes of codification in section 482n–2. The word “hereinafter” does not appear in sections 482n and 482n–1 of this title, but the word “Hereafter” was changed to “On and after May 29, 1942” in those sections for purposes of codification.

The date of the enactment of this section, referred to in text, is May 19, 1955.

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§ 482o. Kaibab National Forest; mining rights; protection of scenic values

On and after July 12, 1951 mining locations made under the mining laws of the United States within the following-described lands within the Kaibab National Forest, Coconino County, Arizona:

Sections 2, 11, 12, 13, 14, 23, and 26, township 22 north, range 2 east;

Sections 1, 12, and 13, township 28 north, range 2 east;

Sections 1, 12, 13, 24, 25, and 36, township 29 north, range 2 east;

Sections 13, 24, 25, and 36, township 30 north, range 2 east;

Section 18, township 30 north, range 3 east;

Sections 12 and 13, township 30 north, range 5 east;

Sections 7, 18, 19, 29, 30, 32, and 33, township 30 north, range 6 east;

Sections 3 and 4, township 29 north, range 6 east, Gila and Salt River Base and meridian; and also those mining locations made under the mining laws of the United States on public domain lands within those particular sections of townships 23 north, 24 north, 25 north, 26 north, 27 north, and 28 north, all in range 2 east, Gila and Salt River Base and meridian, through which there extends Arizona State Highway numbered 64 and a strip of land one thousand feet wide on each side of the center line of the right-of-way thereof; shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting, mining, and beneficiation of ores, including the taking of mineral deposits and timber required by or in the mining and ore-reducing operations, and no permit shall be required or charge made for such use or occupancy: Provided, however, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, or rules and regulations issued by the Secretary of the Interior under sections 482o to 482q of this title with respect to public domain lands under his jurisdiction, and no use of the surface of the claim or the resources therefrom

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not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations or rules and regulations of the Secretary of the Interior, as the case may be, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of such regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

(July 12, 1951, ch. 222, § 1, 65 Stat. 118.)

References in Text

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482p. Patents affecting lands within forest

On and after July 12, 1951, all patents issued under the United States mining laws affecting lands within the above-described area shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by such rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture or the Department of the Interior, respectively.

(July 12, 1951, ch. 222, § 2, 65 Stat. 118.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

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§ 482q. Perfection of mining claims within forest

Valid mining claims within the said lands, existing on July 12, 1951, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under sections 482o to 482q of this title, or under the laws under which they were initiated, as the claimant may desire.

(July 12, 1951, ch. 222, § 3, 65 Stat. 119.)

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§§ 483, 484. Repealed. Pub. L. 86–596, § 3, July 6, 1960, 74 Stat. 335

Sections, act Sept. 22, 1922, ch. 404, §§ 1, 2, 42 Stat. 1017, related to exchange of lands in national forests with persons who have relinquished lands as basis for lieu selection, procedure, relinquishment of original lands to such persons, and selection of other lands in lieu of lands relinquished.

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§ 484a. Exchange of lands in national forests; public schools; deposit of funds by school authority with insufficient exchange land; limitations on use

Whenever an exchange of land is proposed by a State, county, or municipal government or public school district or other public school authority under sections 485 and 486 of this title or other authority under which the Secretary of Agriculture is authorized to exchange national forest lands or other lands administered by the Forest Service, if the State, county, or municipal government or public school authority proposing the exchange has insufficient land to offer, the exchange may be completed upon deposit with the Secretary of Agriculture of a portion or all of the value of the selected land. Any amount so deposited shall be covered into a special fund in the Treasury which when appropriated shall be available until expended by the Secretary of Agriculture for the acquisition of lands in the same State as the selected lands and which are determined by him to be suitable for the same purposes as the selected lands. Lands so acquired shall have the same status and shall be subject to the same laws, regulations, and rules as the selected lands.

The provisions of this section shall not be applicable to the conveyance in exchange of more than eighty acres to any one State, county, or municipal government or public school district or other public school authority. Lands may be conveyed to any State, county, or municipal government pursuant to this section only if the lands were being utilized by such entities on January 12, 1983. Lands so conveyed may be used only for the purposes for which they were being used prior to conveyance.

(Pub. L. 90–171, Dec. 4, 1967, 81 Stat. 531; Pub. L. 97–465, § 8, Jan. 12, 1983, 96 Stat. 2536.)

Amendments

1983—Pub. L. 97–465 inserted references to State, county, or municipal government in three places in existing provisions and inserted provision authorizing the conveyance of lands to any State, county, or municipal government pursuant to this section only if the lands were being utilized by such entities on January 12, 1983, and requiring that lands so conveyed be used only for the purposes for which they were being used prior to conveyance.

Short Title

This section is popularly known as the Sisk Act.

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§ 485. Exchange of lands in national forests; cutting timber in national forests in exchange for lands therein

When the public interests will be benefited thereby, the Secretary of Agriculture is authorized in his discretion to accept on behalf of the United States title to any lands within the exterior boundaries of the national forests which, in his opinion, are chiefly valuable for national-forest purposes, and in exchange therefor may patent not to exceed an equal value of such national-forest land, in the same State, surveyed and nonmineral in character, or he may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State; the values in each case to be determined by him. Before any such exchange is effected notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in such exchanges shall be cut and removed under the laws and regulations relating to the national forests, and under the direction

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and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands conveyed to the United States under this section and section 486 of this title shall, upon acceptance of title, become parts of the national forest within whose exterior boundaries they are located.

(Mar. 20, 1922, ch. 105, § 1, 42 Stat. 465; Pub. L. 86-509, § 1(a), June 11, 1960, 74 Stat. 205.)

Transfer of Functions

Functions of Secretary of the Interior under this section and section 486 of this title, with respect to exchanges of non-Federal lands for national forest lands or timber, transferred to Secretary of Agriculture, see Pub. L. 86-509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of Title 7, Agriculture.

“Secretary of Agriculture is authorized”, “in his opinion”, “he may authorize” and “the values in each case to be determined by him” substituted in text for “Secretary of the Interior is authorized”, “in the opinion of the Secretary of Agriculture”, “the Secretary of Agriculture may authorize” and “the values in each case to be determined by the Secretary of Agriculture”, respectively, in view of transfer of functions under this section to Secretary of Agriculture from Secretary of the Interior by section 1(a) of Pub. L. 86-509, set out as a note under section 2201 of Title 7.

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§ 485a. Omitted

Codification

Section, act Aug. 2, 1935, ch. 424, 49 Stat. 508, related to lands adjacent to Chelan National Forest. See Codification note set out under sections 486a to 486w of this title.

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§ 486. Exchange of lands in national forests; reservations of timber, minerals, or easements

Either party to an exchange may make reservations of timber, minerals, or easements, the values of which shall be duly considered in determining the values of the exchanged lands. Where reservations are made in lands conveyed to the United States the right to enjoy them shall be subject to such reasonable conditions respecting ingress and egress and the use of the surface of the land as may be deemed necessary by the Secretary of Agriculture; where mineral reservations are made in lands conveyed by the United States it shall be so stipulated in the patents, and that any person who acquires the right to mine and remove the reserved deposits may enter and occupy so much of the surface as may be required for all purposes incident to the mining and removal of the minerals therefrom, and may mine and remove such minerals upon payment to the owner of the surface for damages caused to the land and improvements thereon. All property, rights, easements, and benefits authorized by this section to be retained by or reserved to owners of lands conveyed to the United States shall be subject to the tax laws of the States where such lands are located.

(Mar. 20, 1922, ch. 105, § 2, as added Feb. 28, 1925, ch. 375, 43 Stat. 1090.)

Transfer of Functions

Functions of Secretary of the Interior under this section and section 485 of this title, with respect to exchanges of non-Federal lands for national forest lands or timber, transferred to Secretary of Agriculture, see Pub. L. 86-509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of Title 7, Agriculture.

Application Extended

Act June 25, 1935, ch. 308, 49 Stat. 422, provided that this section should be extended and made applicable to exchanges of lands under acts Feb. 14, 1923, ch. 75, 42 Stat. 1245, and Feb. 7, 1929, ch. 160, 45 Stat. 1154, which authorize the United States to acquire privately owned lands situated within certain townships in the Lincoln National Forest in the State of New Mexico, by exchanging therefor an equal value of unreserved and unappropriated public lands within said State.

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§§ 486a to 486w. Omitted

Codification

Exchanges of lands in or adjacent to national forests were authorized by Congress in the following instances:

- Absaroka National Forest—Act May 26, 1926, ch. 399, § 4, 44 Stat. 656.
- Arapaho National Forest—Acts Mar. 3, 1927, ch. 340, 44 Stat. 1378; Dec. 31, 1974, Pub. L. 93–575, 88 Stat. 1878.
- Ashley National Forest—Act Jan. 26, 1931, ch. 44, 46 Stat. 1040.
- Black Hills National Forest—Acts Feb. 15, 1927, ch. 152, 44 Stat. 1099; June 15, 1938, ch. 388, 52 Stat. 686.
- Boise National Forest—Acts July 1, 1930, ch. 85, 46 Stat. 841; May 17, 1934, ch. 292, 48 Stat. 779; June 5, 1942, ch. 342, § 1, 56 Stat. 320; July 17, 1959, Pub. L. 86–92, 73 Stat. 218; Pub. L. 106–493, § 1, Nov. 9, 2000, 114 Stat. 2213.
- Cache National Forest—Acts May 14, 1914, ch. 89, 38 Stat. 377; Feb. 17, 1917, ch. 86, 39 Stat. 922; Feb. 28, 1919, chs. 73, 77, 40 Stat. 1204, 1208; Feb. 25, 1932, ch. 57, 47 Stat. 55.
- Calaveras Bigtree National Forest—Acts Feb. 18, 1909, ch. 143, 35 Stat. 627; May 7, 1912, ch. 105, 37 Stat. 108.
- Caribou National Forest—Acts Apr. 18, 1914, ch. 63, 38 Stat. 346; June 5, 1920, ch. 262, 41 Stat. 1056; June 16, 1948, ch. 476, 62 Stat. 455.
- Carson National Forest—Acts Apr. 21, 1926, ch. 167, 44 Stat. 303; Apr. 16, 1928, ch. 378, 45 Stat. 431; May 31, 1949, ch. 152, 63 Stat. 144; Oct. 9, 1972, Pub. L. 92–474, 86 Stat. 790.
- Challis National Forest—Act Apr. 10, 1928, chs. 339, 340, 45 Stat. 415.
- Chattahoochee National Forest—Act July 20, 1956, ch. 656, 70 Stat. 594.
- Chelan National Forest—Act Aug. 2, 1935, ch. 424, 49 Stat. 508.
- Chippewa National Forest—Acts June 8, 1940, ch. 285, § 3, 54 Stat. 255; Oct. 5, 1949, ch. 597, 63 Stat. 702.
- Cleveland National Forest—Act June 11, 1942, ch. 407, 56 Stat. 358.
- Cochetopa National Forest—Act May 3, 1934, ch. 192, 48 Stat. 658.
- Colorado National Forest—Acts Sept. 8, 1916, ch. 474, 39 Stat. 848; June 4, 1920, ch. 225, 41 Stat. 757; June 2, 1924, ch. 230, 43 Stat. 252; June 9, 1926, ch. 515, § 1, 44 Stat. 714.
- Columbia National Forest—Act Aug. 12, 1937, ch. 588, 50 Stat. 622.
- Colville National Forest—Act Mar. 4, 1927, ch. 493, 44 Stat. 1412.
- Crater National Forest—Acts Feb. 11, 1920, ch. 69, 41 Stat. 405; Apr. 23, 1928, chs. 414, 415, 45 Stat. 450.
- Crow Creek National Forest—Act Mar. 13, 1908, ch. 84, 35 Stat. 42.
- Custer National Forest—Act Mar. 3, 1925, ch. 440, 43 Stat. 1117.
- Deschutes National Forest—Acts Feb. 2, 1922, ch. 46, 42 Stat. 362; May 24, 1935, ch. 140, 49 Stat. 288.
- Dixie National Forest—Act Mar. 7, 1942, ch. 162, § 2, 56 Stat. 142.
- Eldorado National Forest—Act Feb. 20, 1925, ch. 272, 43 Stat. 954.
- Fishlake National Forest—Act July 28, 1914, ch. 212, 38 Stat. 556.
- Fremont National Forest—Acts May 14, 1930, ch. 270, 46 Stat. 278; Apr. 14, 1934, ch. 138, 48 Stat. 590.
- Gallatin National Forest—Act May 26, 1926, ch. 399, § 5, 44 Stat. 656.
- Gunnison National Forest—Acts Apr. 23, 1928, ch. 416, 45 Stat. 451; Mar. 4, 1933, ch. 277, 47 Stat. 1569.
- Harney National Forest—Acts Feb. 15, 1927, ch. 152, 44 Stat. 1099; Oct. 6, 1949, ch. 620, 63 Stat. 708.
- Helena National Forest—Act Apr. 23, 1930, ch. 206, 46 Stat. 250.
- Idaho National Forest—Acts Oct. 17, 1919, ch. 88, 41 Stat. 324; Apr. 10, 1928, ch. 338, 45 Stat. 415; June 30, 1932, ch. 332, 47 Stat. 474.
- Idaho, national forests in—Act Apr. 30, 1934, ch. 172, 48 Stat. 649.

TITLE 16 - Section 486a to 486w - Omitted

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Kaniksu National Forest—Acts May 26, 1938, ch. 279, 52 Stat. 443; Aug. 10, 1939, ch. 661, 53 Stat. 1347; June 14, 1965, Pub. L. 89–39, 79 Stat. 129.

Kansas National Forest—Act Feb. 28, 1911, ch. 181, 36 Stat. 960.

Klamath National Forest—Act June 22, 1938, ch. 565, 52 Stat. 836.

Lassen National Forest—Acts June 3, 1924, ch. 238, 43 Stat. 356; June 22, 1938, chs. 564, 566, 52 Stat. 835, 838.

Lemhi National Forest—Act Mar. 1, 1921, ch. 101, 41 Stat. 1199.

Lincoln National Forest—Acts Feb. 14, 1923, ch. 75, 42 Stat. 1245; Feb. 7, 1929, ch. 160, 45 Stat. 1154; June 25, 1935, ch. 308, 49 Stat. 422.

Malheur National Forest—Acts Mar. 8, 1922, ch. 97, 42 Stat. 416; June 17, 1940, ch. 392, 54 Stat. 402.

Manti National Forest—Act Mar. 26, 1928, ch. 250, 45 Stat. 370.

Manzano National Forest—Act Apr. 16, 1928, ch. 378, 45 Stat. 431.

Medicine Bow National Forest—Acts June 7, 1924, ch. 307, 43 Stat. 594; Apr. 13, 1926, ch. 131, 44 Stat. 248; Aug. 20, 1935, ch. 576, 49 Stat. 662.

Minam National Forest—Act Mar. 3, 1919, ch. 107, 40 Stat. 1319.

Minidoka National Forest—Act Jan. 11, 1922, ch. 24, 42 Stat. 355.

Minnesota, national forests in—Act Dec. 7, 1942, ch. 691, 56 Stat. 1042.

Missoula National Forest—Acts Feb. 17, 1917, ch. 85, 39 Stat. 922; May 17, 1928, ch. 611, 45 Stat. 598; Mar. 1, 1929, ch. 425, 45 Stat. 1426.

Modoc National Forest—Acts Mar. 3, 1919, ch. 102, 40 Stat. 1316; Mar. 4, 1933, ch. 272, 47 Stat. 1563; June 22, 1938, ch. 564, 52 Stat. 835; Aug. 4, 1947, ch. 461, 61 Stat. 739.

Modoc, Shasta, and Lassen National Forests—Act June 22, 1938, ch. 564, 52 Stat. 835.

Montana, national forests in—Act Jan. 30, 1929, ch. 122, 45 Stat. 1145.

Montezuma National Forest—Act May 22, 1928, ch. 686, 45 Stat. 711.

Mount Hood National Forest—Acts Feb. 28, 1925, ch. 372, 43 Stat. 1079; May 21, 1934, ch. 317, 48 Stat. 785.

National forests in Montana—Act Jan. 30, 1929, ch. 122, 45 Stat. 1145.

New Mexico, national forests in—Act June 15, 1926, ch. 590, § 1, 44 Stat. 747.

Nez Perce National Forest—Act Mar. 1, 1921, ch. 96, 41 Stat. 1196.

Nicolet National Forest—Act June 19, 1948, ch. 550, 62 Stat. 534.

Ochoco National Forest—Acts June 24, 1914, ch. 123, 38 Stat. 387; Feb. 11, 1920, ch. 67, 41 Stat. 404; June 15, 1938, ch. 397, 52 Stat. 692; June 8, 1940, ch. 279, 54 Stat. 251.

Olympic National Forest—Acts Sept. 22, 1922, ch. 424, 42 Stat. 1036; June 29, 1938, ch. 812, 52 Stat. 1241.

Oregon National Forest—Acts Oct. 21, 1918, ch. 192, 40 Stat. 1015; Feb. 11, 1920, ch. 69, 41 Stat. 405; May 20, 1920, ch. 191, 41 Stat. 605.

Paulina (Oregon) National Forest—Act July 25, 1912, ch. 252, 37 Stat. 200.

Payette National Forest—Acts Oct. 17, 1919, ch. 88, 41 Stat. 324; July 17, 1959, Pub. L. 86–92, 73 Stat. 218; Pub. L. 106–493, § 1, Nov. 9, 2000, 114 Stat. 2213.

Pike National Forest—Acts Aug. 24, 1914, ch. 285, 38 Stat. 705; Mar. 4, 1915, ch. 173, 38 Stat. 1194; Sept. 8, 1916, chs. 469, 474, 39 Stat. 844, 848; May 3, 1934, ch. 191, 48 Stat. 657; Dec. 23, 1944, ch. 722, 58 Stat. 924.

Pisgah National Forest—Act Aug. 26, 1935, ch. 682, 49 Stat. 800.

Plumas National Forest—Acts June 3, 1924, ch. 238, 43 Stat. 356; Feb. 20, 1925, ch. 272, 43 Stat. 952; June 22, 1938, ch. 566, 52 Stat. 838; June 5, 1942, ch. 334, 56 Stat. 311.

Pocatello National Forest—Act Feb. 18, 1911, ch. 115, 36 Stat. 919.

Rainier National Forest—Acts Mar. 4, 1921, ch. 159, 41 Stat. 159; Dec. 20, 1921, ch. 11, 42 Stat. 350; May 28, 1926, ch. 410, § 1, 44 Stat. 668.

Rio Grande National Forest—Acts June 20, 1938, ch. 529, 52 Stat. 781; June 29, 1940, ch. 454, 54 Stat. 695.

TITLE 16 - Section 487 - Cutting timber on land added to Siskiyou National Forest

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Rogue River National Forest—Acts June 4, 1936, ch. 494, 49 Stat. 1460; July 27, 1937, ch. 524, 50 Stat. 534.

Roosevelt National Forest—Pub. L. 85–567, July 28, 1958, 72 Stat. 426.

Salmon National Forest—Act June 5, 1942, ch. 342, § 2, 56 Stat. 320.

San Juan National Forest—Act June 29, 1940, ch. 454, 54 Stat. 695.

Santa Fe National Forest—Acts Apr. 21, 1926, ch. 167, 44 Stat. 303; Apr. 16, 1928, ch. 378, 45 Stat. 431; Oct. 9, 1972, Pub. L. 92–474, 86 Stat. 790.

Santiam National Forest—Act Feb. 28, 1925, ch. 373, 43 Stat. 1080.

Sawtooth National Forest—Act Apr. 10, 1928, ch. 339, 45 Stat. 415.

Sequoia National Forest—Acts July 3, 1926, ch. 744, 44 Stat. 818; Dec. 9, 1942, ch. 712, 56 Stat. 1044.

Sevier National Forest—Acts July 3, 1916, ch. 212, 39 Stat. 340; Jan. 7, 1921, ch. 14, 41 Stat. 1087.

Shasta and Klamath National Forests—Act June 22, 1938, ch. 565, 52 Stat. 836.

Shasta National Forest—Acts Feb. 20, 1925, ch. 272, 43 Stat. 954; June 22, 1938, chs. 564, 565, 52 Stat. 835, 836; Mar. 19, 1948, ch. 139, 62 Stat. 83, eff. July 1, 1948; July 28, 1958, Pub. L. 85–565, 72 Stat. 425.

Shoshone National Forest—Acts Dec. 20, 1921, ch. 10, 42 Stat. 350; Mar. 4, 1927, ch. 494, 44 Stat. 1412.

Sierra National Forest—Acts June 11, 1906, Res. No. 27, 34 Stat. 832; Apr. 16, 1914, ch. 58, 38 Stat. 345; May 13, 1914, ch. 88, 38 Stat. 376; June 5, 1920, ch. 242, 41 Stat. 980.

Siskiyou National Forest—Acts Sept. 22, 1922, ch. 407, 42 Stat. 1019; June 13, 1935, ch. 222, 49 Stat. 338.

Siuslaw National Forest—Acts Feb. 11, 1920, ch. 69, 41 Stat. 405; June 30, 1932, ch. 328, 47 Stat. 451; Jan. 17, 1940, ch. 2, 54 Stat. 14; Nov. 25, 1940, ch. 915, 54 Stat. 1210; Mar. 23, 1972, Pub. L. 92–260, § 6, 86 Stat. 100.

Snoqualmie National Forest—Acts Sept. 22, 1922, ch. 424, 42 Stat. 1036; Feb. 28, 1925, ch. 369, 43 Stat. 1074; Aug. 21, 1937, ch. 727, 50 Stat. 739.

Stanislaus National Forest—Acts Apr. 16, 1914, ch. 58, 38 Stat. 345; Feb. 20, 1925, ch. 272, 43 Stat. 954.

Tahoe National Forest—Acts Apr. 11, 1922, ch. 129, 42 Stat. 493; Feb. 20, 1925, ch. 272, 43 Stat. 954; Feb. 12, 1938, ch. 27, §§ 1–4, 52 Stat. 28; June 22, 1938, ch. 566, 52 Stat. 838.

Targhee National Forest—Acts Mar. 1, 1921, ch. 98, 41 Stat. 1198; June 5, 1942, ch. 342, § 2, 56 Stat. 320.

Teton National Forest—Acts Aug. 16, 1916, ch. 345, 39 Stat. 515; Dec. 31, 1974, Pub. L. 93–564, 88 Stat. 1843.

Tierra Amarillo Grant adjacent to Rio Grande or San Juan National Forests—Act June 29, 1940, ch. 454, 54 Stat. 695.

Trinity National Forest—Act June 20, 1938, ch. 533, 52 Stat. 797.

Umatilla National Forest—Acts Mar. 4, 1925, ch. 538, 43 Stat. 1279; June 19, 1936, ch. 603, 49 Stat. 1534; June 17, 1940, ch. 392, 54 Stat. 402; Oct. 9, 1980, Pub. L. 96–406, 94 Stat. 1715.

Wallowa National Forest—Acts Mar. 4, 1925, ch. 538, 43 Stat. 1279; Oct. 9, 1980, Pub. L. 96–406, §§ 1, 2, 94 Stat. 1715.

Washakie National Forest—Acts June 14, 1926, ch. 579, 44 Stat. 742; Mar. 4, 1931, ch. 501, 46 Stat. 1521.

Weiser National Forest—Act Mar. 1, 1921, ch. 92, 41 Stat. 1194.

Wenatchee National Forest—Acts Sept. 22, 1922, ch. 424, 42 Stat. 1036; Aug. 11, 1939, ch. 697, 53 Stat. 1412.

Whitman National Forest—Acts Sept. 8, 1916, ch. 476, 39 Stat. 852; Mar. 4, 1925, chs. 538, 541, 43 Stat. 1279, 1282; June 19, 1936, ch. 603, 49 Stat. 1534; June 17, 1940, ch. 392, 54 Stat. 402.

Willamette National Forest—Act June 13, 1935, ch. 221, 49 Stat. 338.

Wyoming National Forest—Acts Aug. 16, 1916, ch. 345, § 2, 39 Stat. 516; Feb. 25, 1919, ch. 20, 40 Stat. 1152.

§ 487. Cutting timber on land added to Siskiyou National Forest

The Secretary of Agriculture is authorized, in his discretion, to sell the merchantable timber on the land added to the Siskiyou National Forest by section 1 hereof, in accordance with the regulations governing the sale of public timber in the national forests, and the entire proceeds of any sale of

the timber on such land shall be deposited in the Treasury of the United States in a special fund designated as “The Oregon and California land-grant fund”, referred to in the Act of Congress approved June 9, 1916, chapter 137, section 10, Thirty-ninth Statutes, page 222, and be disposed of in the manner therein designated, the land added forming part of the area which reverted in the United States under the provisions of the said Act.

(Sept. 22, 1922, ch. 407, § 2, 42 Stat. 1019.)

References in Text

Section 1 hereof, referred to in text, means section 1 of act Sept. 22, 1922, ch. 407, 42 Stat. 1019, which related to exchanges of lands in or adjacent to Siskiyou National Forest and was not classified to the Code. See Codification note set out under sections 486a to 486w of this title.

Act of Congress approved June 9, 1916, referred to in text, was not classified to the Code.

.....

§ 487a. Cutting timber on lands added to Rogue River National Forest

When the Secretary of Agriculture finds that merchantable timber may be cut without detriment to the purity or depletion of the water supply from lands added to the Rogue River National Forest by Act of June 4, 1936, chapter 494, section 1, 49 Stat. 1460, title to which has been reverted in the United States under the Act of Congress approved June 9, 1916 (39 Stat. 218), said Secretary is authorized to dispose of such merchantable timber on such lands in accordance with the rules and regulations of the Secretary of Agriculture for the national forests and the entire proceeds of any such sale shall be deposited in the Treasury of the United States in a special fund designated “The Oregon and California Land Grant Fund”, referred to in section 10 of the said Act of June 9, 1916, and be disposed of in the manner therein designated.

(June 4, 1936, ch. 494, § 2, 49 Stat. 1461.)

References in Text

Act of June 4, 1936, chapter 494, section 1, 49 Stat. 1460, referred to in text, related to exchanges of lands in or adjacent to Rogue River National Forest and was not classified to the Code. See Codification note set out under sections 486a to 486w of this title.

Act of Congress approved June 9, 1916, referred to in text, was not classified to the Code.

.....

§ 488. Establishment of exterior boundaries of national forests

On and after Mar. 3, 1899, all standard, meander, township, and section lines of the public-land surveys shall be established under the direction and supervision of the Secretary of the Interior or such officer as he may designate, whether the lands to be surveyed are within or without national forests, except that where the exterior boundaries of national forests are required to be coincident with standard, township, or section lines, such boundaries may, if not previously established in the ordinary course of the public-land surveys, be established and marked under the supervision of the Director of the United States Geological Survey whenever necessary to complete the survey of such exterior boundaries.

(Mar. 3, 1899, ch. 424, § 1, 30 Stat. 1097; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Codification

“National forests” substituted in text for “reservations” and “public forest reservations” on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Change of Name

“Secretary of the Interior or such officer as he may designate” substituted in text for “Commissioner of the General Land Office” on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

Transfer of Functions

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

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§ 489. Repealed. Pub. L. 87–869, § 5, Oct. 23, 1962, 76 Stat. 1157

Section, act Aug. 10, 1912, ch. 284, 37 Stat. 287, related to sale of mature, dead, and down timber.

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§ 490. Deposits from timber purchasers to defray cost of disposing of debris

Purchasers of national-forest timber may be required by the Secretary of Agriculture to deposit the estimated cost to the United States of disposing of brush and other debris resulting from their cutting operations, such deposits to be covered into the Treasury and constitute a special fund, which is appropriated and shall remain available until expended: Provided, That any deposits in excess of the amount expended for disposals shall be transferred to miscellaneous receipts, forest-reserve fund, to be credited to the receipts of the year in which such transfer is made.

(Aug. 11, 1916, ch. 313, 39 Stat. 462; Apr. 24, 1950, ch. 97, § 6, 64 Stat. 84.)

Amendments

1950—Act Apr. 24, 1950, covered excess deposits into miscellaneous receipts instead of returning them to the depositors as was formerly the practice.

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§ 491. Omitted

Codification

Section, act May 11, 1926, ch. 286, 44 Stat. 512, which authorized Secretary of Agriculture to permit exportation of timber and other products from State or Territory when cut or removed from national forests situated therein, was from Department of Agriculture Appropriation Act, 1927, and was not repeated in subsequent appropriations. See section 616 of this title. Similar provisions were contained in the following prior appropriation acts:

- Feb. 10, 1925, ch. 200, 43 Stat. 834.
- June 5, 1924, ch. 266, 43 Stat. 443.
- Feb. 26, 1923, ch. 119, 42 Stat. 1302.
- May 11, 1922, ch. 185, 42 Stat. 519.
- Mar. 3, 1921, ch. 127, 41 Stat. 1326.
- May 31, 1920, ch. 217, 41 Stat. 706.
- July 24, 1919, ch. 26, 41 Stat. 248.
- Oct. 1, 1918, ch. 178, 40 Stat. 985.

Mar. 4, 1917, ch. 179, 39 Stat. 1145.

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§ 492. Earth, stone, and timber for Departments of the Army and Navy, and Government works in Alaska

On and after March 4, 1915 the Secretary of Agriculture, under regulations to be prescribed by him, is authorized to permit the Navy Department to take from the national forests such earth, stone, and timber for the use of the Navy as may be compatible with the administration of the national forests for the purposes for which they are established, and also in the same manner to permit the taking of earth, stone, and timber from the national forests for the construction of Government railways and other Government works in Alaska. He is authorized also to permit the Department of the Army to take earth, stone, and timber from the national forests for use in the construction of river and harbor and other works in charge of that department, subject to such regulations and restrictions as he may prescribe.

(Mar. 4, 1915, ch. 144, 38 Stat. 1100; Mar. 3, 1925, ch. 467, § 13, 43 Stat. 1197; May 29, 1928, ch. 901, § 1(98), 45 Stat. 993; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

Codification

The first sentence of this section is from act Mar. 4, 1915, and the last sentence is from act Mar. 3, 1925.

Amendments

1928—Act May 29, 1928, struck out provision which required the Secretary of Agriculture to submit with his annual estimates a report of the quantity and market value of earth, stone, and timber furnished.

Change of Name

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

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§ 493. Omitted

Codification

Section, act May 11, 1926, ch. 286, 44 Stat. 514, which authorized the Secretary of Agriculture to furnish young trees free from the Nebraska National Forest to homestead settlers, was from the Department of Agriculture Appropriation Act, 1927, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Feb. 10, 1925, ch. 200, 43 Stat. 835.

June 5, 1924, ch. 266, 43 Stat. 445.

Feb. 26, 1923, ch. 119, 42 Stat. 1304.

May 11, 1922, ch. 185, 42 Stat. 520.

The Nebraska National Forest, Niobrara division, was redesignated the Samuel R. McKelvie National Forest by Pub. L. 92–142, Oct. 15, 1971, 85 Stat. 393.

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§ 494. Calaveras Bigtree National Forest

The Secretary of Agriculture, to secure and protect for all time the big trees scientifically known as *Sequoia washingtoniana*, is empowered, in his discretion, to obtain for the United States the

TITLE 16 - Section 494 - Calaveras Bigtree National Forest

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complete title to any or all of the following-described lands in the State of California: In township 4 north, range 15 east, Mount Diablo meridian, the northeast quarter of section 1; in township 4 north, range 16 east, Mount Diablo meridian, the north half of section 6; in township 5 north, range 15 east, Mount Diablo meridian, the southwest quarter of section 14, south half of section 15, north half of section 22, northwest quarter of section 23, and southeast quarter of section 36, and in township 5 north, range 16 east, Mount Diablo meridian, the west half of section 28, the east half and southwest quarter of section 29, the southeast quarter of section 30, all of sections 31, 32, and the northwest quarter of section 33. And such area or areas, as fast as complete title is acquired, shall be permanently held by the United States and shall be known as the Calaveras Bigtree National Forest and shall be administered, and protected, by the Secretary of Agriculture from the funds appropriated for the administration of National Forest land to prolong the existence, growth, and promote the reproduction of said big trees. The owners of land acquired hereunder shall convey to the United States full title to any of the above-described areas approved for said national forest by the Secretary of Agriculture, the completeness of such title to be determined by the Secretary of the Interior in each case, and shall be reimbursed therefor only in one or both of the following ways:

- (1) They may be given the right to file with the Secretary of the Interior, within sixty days after such conveyance, selections of surveyed, unappropriated, nonmineral public lands or of nonmineral national forest lands, and if the lands so selected shall be found subject to selection and of the actual value in lands and stumpage substantially equal to that of the lands and stumpage conveyed they may be patented to said owners in lieu of the conveyed lands. In any case where any part of the lands selected is national forest land, the approval of the Secretary of Agriculture shall first be secured with respect to such part, or
- (2) the Secretary of Agriculture may grant to any such conveying owner the right to cut from national forest land an amount of timber and wood substantially equal to the amount of timber and wood on the land acquired by the United States under the provisions of this section.

(Feb. 18, 1909, ch. 143, 35 Stat. 626; May 7, 1912, ch. 105, § 1, 37 Stat. 108.)

Codification

A proviso of the section as originally enacted “That nothing contained in this Act shall warrant an appropriation from the Treasury to carry out the terms of this Act,” was superseded by the appropriation of a sum for the purposes of the Act by section 2 of act May 7, 1912.

Amendments

1912—Act May 7, 1912, changed provisions of original act as to modes of reimbursement of owners of lands taken.

Transfer of Lands in Calaveras Big Trees National Forest to State of California

Pub. L. 101-436, Oct. 17, 1990, 104 Stat. 993, provided that:

“SECTION 1. FINDINGS AND PURPOSE.

“(a) Findings.—The Congress finds and declares that—

“(1) in order to protect certain outstanding examples of ponderosa pine, sugar pine, and giant sequoia trees located in the North and South Calaveras Groves, on the western slope of the Sierra Nevada Mountains, the State of California has established the Calaveras Big Trees State Park;

“(2) for similar purposes, the United States has designated certain adjacent Federal lands, amounting to approximately 379 acres, as the Calaveras Big Trees National Forest; and

“(3) this National Forest (managed as part of the Stanislaus National Forest) is the smallest National Forest in the United States and could be more appropriately and efficiently managed as part of the Calaveras Big Trees State Park.

TITLE 16 - Section 494 - Calaveras Bigtree National Forest

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“(b) Purpose.—The purpose of this Act is to improve the management of the lands located in the Calaveras Big Trees National Forest, and to protect certain examples of ponderosa pine, sugar pine, and giant sequoia trees, by unifying the management of the lands in such National Forest and in the California Calaveras Big Trees State Park.

“SEC. 2. LAND CONVEYANCE.

“(a) Conveyance.—Subject to valid existing rights and the provisions of this Act, the Secretary of Agriculture (hereinafter in this Act referred to as the ‘Secretary’) is authorized and directed to convey all right, title, and interest of the United States in and to lands and interests therein within the Calaveras Big Trees National Forest, as generally depicted on a map numbered 20435 and dated June 5, 1989, prepared by the California Department of Parks and Recreation, to the State of California for inclusion within the Calaveras Big Trees State Park.

“(b) Map and Description.—As soon as practicable after the enactment of this Act [Oct. 17, 1990], the Secretary shall submit a map and legal description of the lands referred to in subsection (a) to the Committee on Interior and Insular Affairs [now Committee on Natural Resources] of the United States House of Representatives, and the Committee on Energy and Natural Resources of the Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical errors in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service.

“(c) Conditions of Conveyance.—Conveyance of the lands and interests described in subsection (a) of this section shall be subject to the following conditions:

“(1) The conveyance shall take place only if within two years after the date of enactment of this Act [Oct. 17, 1990], there is concluded an agreement between the State of California and the Secretary whereby the State of California agrees to provide to the United States, in exchange for the lands described in subsection (a) and pursuant to terms and conditions which the Secretary finds acceptable, consideration of approximately equal value. Such consideration shall include either lands in California that the Secretary finds suitable for addition to, and are contiguous to, one or more units of the National Forest System, cash payment, or monetary grants awarded to the United States after June 1, 1990, or any combination thereof.

“(2) No harvest of timber (except as may be necessary for the control of fire, insects, or disease) and no mining, mineral leasing, or geothermal exploration or development shall be permitted on such lands;

“(3) Any action by the State of California to convey any portion of such lands or interests to any entity other than the United States shall be void ab initio and shall result in the reversion to the United States of all right, title, and interest in such lands;

“(4) Any action by the State of California to permit the use of any portion of such lands for any purpose prohibited by this subsection or any purpose incompatible with the continued ability of such lands to support ponderosa pine, sugar pine, or giant sequoia trees, shall result in the reversion of all right, title, and interest in such lands to the United States. Any such lands which revert to the United States shall be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands.

“(5) The Secretary, acting through the Forest Service, shall be afforded by appropriate officials of the State of California reasonable opportunities to collect seeds from trees located on such lands for scientific or silvicultural purposes.

“(6) The Secretary, upon prior notification to the State of California, shall be entitled at any time to enter upon such lands for the purpose of monitoring the management of such lands and the compliance of the State of California with the provisions of this subsection.

“(7) The conveyance shall be subject to the following reservations or exceptions:

“(A) existing ditches and canals as authorized by the Act of August 30, 1890 (43 U.S.C. 945); and

“(B) any existing rights-of-way to provide the United States and its assigns access to federally owned lands.

“(d) Enforcement.—Upon the request of the Secretary, the Attorney General shall bring any action or take any other steps necessary to enforce the provisions of subsection (c) of this section.

“(e) Timing, Value, and Status.—(1) Conveyance of lands to the State of California pursuant to this Act shall occur when the agreement described in paragraph (1) of subsection (c) has been reached. The restrictions and conditions specified in paragraphs (2), (3), (4), (5), (6), and (7) of subsection (c) shall be included in the instruments of conveyance of lands to the State of California.

“(2) Effective upon the conveyance to the State of California of lands described in subsection (a) of this section, or two years after the date of enactment of this Act [Oct. 17, 1990], whichever is sooner, the National Forest designation of such lands shall terminate. Any such lands not conveyed to the State of California shall thereupon be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands.

TITLE 16 - Section 495 - Leases of lands for sanitariums or hotels

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“(3) Any lands conveyed to the United States pursuant to this Act shall be deemed national forest lands and managed according to the laws governing the management of the National Forest System. If any such lands are outside existing boundaries of one or more National Forests, the Secretary shall modify such boundaries as he deems appropriate to include such lands.

“(4) Values of the respective lands exchanged between the United States and the State of California pursuant to this Act shall be of ‘approximately equal value’ as that term is defined by regulations implementing the Act of January 12, 1983, known as the Small Tracts Act (16 U.S.C. 521c–521i).”

.....

§ 495. Leases of lands for sanitariums or hotels

The Secretary of Agriculture is authorized, under such rules and regulations as he from time to time may make, to rent or lease to responsible persons or corporations applying therefor suitable spaces and portions of ground near, or adjacent to, mineral, medicinal, or other springs, within any national forest established within the United States, or hereafter to be established, and where the public is accustomed or desires to frequent, for health or pleasure, for the purpose of erecting upon such leased ground sanitariums or hotels, to be opened for the reception of the public. And he is further authorized to make such regulations, for the convenience of people visiting such springs, with reference to spaces and locations, for the erection of tents or temporary dwelling houses to be erected or constructed for the use of those visiting such springs for health or pleasure. And the Secretary of Agriculture is authorized to prescribe the terms and duration and the compensation to be paid for the privileges granted under the provisions of this section.

(Feb. 28, 1899, ch. 221, § 1, 30 Stat. 908; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.)

Codification

“National forest” substituted in text for “forest reserves” on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Transfer of Functions

Act Feb. 1, 1905 transferred certain functions with regard to administration of national forests from Secretary of the Interior to Secretary of Agriculture.

.....

§ 496. Disposition of funds

All funds arising from the privileges granted under section 495 of this title shall be covered into the Treasury of the United States as provided by law.

(Feb. 28, 1899, ch. 221, § 2, 30 Stat. 908; Mar. 4, 1907, ch. 2907, 34 Stat. 1270.)

Codification

As enacted by act Feb. 28, 1899, section provided that the funds be “covered into the Treasury of the United States as a special fund, to be expended in the care of public forest reservations”.

Section was affected by act Mar. 4, 1907, which provides that all revenue from the national forests shall be covered into the Treasury as a miscellaneous receipt.

.....

§ 497. Use and occupation of lands for hotels, resorts, summer homes, stores, and facilities for industrial, commercial, educational or public uses

The Secretary of Agriculture is authorized, under such regulations as he may make and upon such terms and conditions as he may deem proper,

- (a) to permit the use and occupancy of suitable areas of land within the national forests, not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining hotels, resorts, and any other structures or facilities necessary or desirable for recreation, public convenience, or safety;
- (b) to permit the use and occupancy of suitable areas of land within the national forests, not exceeding five acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining summer homes and stores;
- (c) to permit the use and occupancy of suitable areas of land within the national forest, not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining buildings, structures, and facilities for industrial or commercial purposes whenever such use is related to or consistent with other uses on the national forests;
- (d) to permit any State or political subdivision thereof, or any public or nonprofit agency, to use and occupy suitable areas of land within the national forests not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining any buildings, structures, or facilities necessary or desirable for education or for any public use or in connection with any public activity. The authority provided by this section shall be exercised in such manner as not to preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the national forests.

(Mar. 4, 1915, ch. 144, 38 Stat. 1101; July 28, 1956, ch. 771, 70 Stat. 708.)

Amendments

1956—Act July 28, 1956, increased maximum area of land for each purpose for which permits may be granted from not more than 5 acres to not more than 80 acres, and authorized permits for facilities for public safety, for buildings, structures, and facilities for industrial or commercial purposes whenever such purposes are related to or consistent with other use of the national forests, and for facilities to be used by public or nonprofit agencies for education or public use or in connection with any public activity.

Enhancing Forest Service Administration of Rights-of-Way and Land Uses

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 331], Nov. 29, 1999, 113 Stat. 1535, 1501A–196, as amended by Pub. L. 108–447, div. E, title III, § 345, Dec. 8, 2004, 118 Stat. 3105; Pub. L. 109–54, title IV, § 425, Aug. 2, 2005, 119 Stat. 555; Pub. L. 110–161, div. F, title IV, § 416, Dec. 26, 2007, 121 Stat. 2148, provided that:

“(a) The Secretary of Agriculture shall develop and implement a pilot program for the purpose of enhancing forest service administration of rights-of-way and other land uses. The authority for this program shall be for fiscal years 2000 through 2012. Prior to the expiration of the authority for this pilot program, the Secretary shall submit a report to the House and Senate Committees on Appropriations, and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives that evaluates whether the use of funds under this section resulted in more expeditious approval of rights-of-way and special use authorizations. This report shall include the Secretary’s recommendation for statutory or regulatory changes to reduce the average processing time for rights-of-way and special use permit applications.

“(b) Deposit of Fees.—Subject to subsections (a) and (f), during fiscal years 2000 through 2012, the Secretary of Agriculture shall deposit into a special account established in the Treasury all fees collected by the Secretary to recover the costs of processing applications for, and monitoring compliance with, authorizations to use and occupy National Forest System lands pursuant to section 28(l) of the Mineral Leasing Act (30 U.S.C. 185 (l)), section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764 (g)), section 9701 of title 31, United States Code, and section 110(g) of the National Historic Preservation Act (16 U.S.C. 470h–2 (g)).

“(c) Use of Retained Amounts.—Amounts deposited pursuant to subsection (b) shall be available, without further appropriation, for expenditure by the Secretary of Agriculture to cover costs incurred by the Forest Service for the processing of applications for special use authorizations and for monitoring activities undertaken in connection with such authorizations. Amounts in the special account shall remain available for such purposes until expended.

“(d) Reporting Requirement.—In the budget justification documents submitted by the Secretary of Agriculture in support of the President’s budget for a fiscal year under section 1105 of title 31, United States Code, the Secretary shall include a description of the purposes for which amounts were expended from the special account during the preceding fiscal year, including the amounts expended for each purpose, and a description of the purposes for which amounts

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are proposed to be expended from the special account during the next fiscal year, including the amounts proposed to be expended for each purpose.

“(e) Definition of Authorization.—For purposes of this section, the term ‘authorizations’ means special use authorizations issued under subpart B of part 251 of title 36, Code of Federal Regulations.

“(f) Implementation.—This section shall take effect upon promulgation of Forest Service regulations for the collection of fees for processing of special use authorizations and for related monitoring activities.”

.....

§ 497a. Occupancy and use under permit of lands in Alaska for various purposes; period of permit; size of allotment; prohibitions; termination

The Secretary of Agriculture, in conformity with regulations prescribed by him, may permit the use and occupancy of national-forest lands in Alaska for purposes of residence, recreation, public convenience, education, industry, agriculture, and commerce, not incompatible with the best use and management of the national forests, for such periods as may be warranted but not exceeding thirty years and of such areas as may be necessary but not exceeding eighty acres, and after such permits have been issued and so long as they continue in full force and effect the lands therein described shall not be subject to location, entry, or appropriation, under the public land laws or mining laws, or to disposition under the mineral leasing laws: Provided, That nothing contained in this section shall prevent the said Secretary from canceling, revoking, or otherwise terminating a permit so issued upon proof of a breach of its terms and conditions or for other just cause.

(Mar. 30, 1948, ch. 162, 62 Stat. 100.)

References in Text

The public land laws, referred to in text, are classified generally to Title 43, Public Lands.

The mining laws and the mineral leasing laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

Codification

Section was formerly classified to section 341 of Title 48, Territories and Insular Possessions.

.....

§ 497b. Ski area permits

(a) Law applicable to permits

The provisions of the Act of March 4, 1915 (16 U.S.C. 497) notwithstanding, the term and acreage of permits for the operation of nordic and alpine ski areas and facilities on National Forest System lands shall on and after October 22, 1986, be governed by this section and other applicable law.

(b) Authority

The Secretary of Agriculture (hereinafter referred to as “the Secretary”) is authorized to issue permits (hereinafter referred to as “ski area permits”) for the use and occupancy of suitable lands within the National Forest System for nordic and alpine skiing operations and purposes. A ski area permit—

- (1) may be issued for a term not to exceed 40 years;
- (2) shall ordinarily be issued for a term of 40 years (unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation), or that there are public policy reasons specific to a particular permit for a shorter term;
- (3) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee’s needs for ski operations and appropriate ancillary facilities;
- (4) may be renewed at the discretion of the Secretary;

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(5) may be cancelled by the Secretary in whole or in part for any violation of the permit terms or conditions, for nonpayment of permit fees, or upon the determination by the Secretary in his planning for the uses of the national forests that the permitted area is needed for higher public purposes;

(6) may be modified from time to time by the Secretary to accommodate changes in plans or operations in accordance with the provisions of applicable law;

(7) shall be subject to such reasonable terms and conditions as the Secretary deems appropriate; and

(8) shall be subject to a permit fee based on fair market value in accordance with applicable law.

(c) Rules and regulations

Within one year after October 22, 1986, the Secretary shall promulgate rules and regulations to implement the provisions of this section, and shall, to the extent practicable and with the consent of existing permit holders, convert all existing ski area permits or leases on National Forest System lands into ski area permits which conform to the provisions of this section within 3 years of October 22, 1986.

(d) Construction with Secretary's duties under other laws

Nothing in this section shall be deemed to amend, modify or otherwise affect the Secretary's duties under the National Environmental Policy Act [42 U.S.C. 4321 et seq.], or the Forest and Rangelands Renewable Resources Planning Act [16 U.S.C. 1600 et seq.] as amended by the National Forest Management Act, including his duties to involve the public in his decisionmaking and planning for the national forests.

(Pub. L. 99-522, § 3, Oct. 22, 1986, 100 Stat. 3000.)

References in Text

Act of March 4, 1915 (16 U.S.C. 497), referred to in subsec. (a), is act Mar. 4, 1915, ch. 144, 38 Stat. 1086, as amended. For complete classification of this Act to the Code, see Tables.

This section, referred to in subsecs. (a), (c), and (d), was in the original "this Act", meaning Pub. L. 99-522, Oct. 22, 1986, 100 Stat. 3000, known as the National Forest Ski Area Permit Act of 1986, which enacted this section and notes set out under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

The National Environmental Policy Act, referred to in subsec. (d), probably means the National Environmental Policy Act of 1969, Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Forest and Rangelands Renewable Resources Planning Act, referred to in subsec. (d), probably means the Forest and Rangeland Renewable Resources Planning Act of 1974, Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The National Forest Management Act, referred to in subsec. (d), probably means the National Forest Management Act of 1976, Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, as amended. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

Short Title

Section 1 of Pub. L. 99-522 provided that: "This Act [enacting this section and provisions set out as a note below] may be cited as the 'National Forest Ski Area Permit Act of 1986'."

Purposes

Section 2 of Pub. L. 99-522 provided that: "The purposes of this Act [see Short Title note above] are to—

"(a) provide a unified and modern permitting process for nordic and alpine ski areas on national forest lands;

"(b) provide for ski area permits which more closely reflect the acreage and other physical requirements of modern ski area development; and

“(c) provide a permit system which will be more commensurate with the long-term construction, financing, and operation needs of ski areas on national forest lands.”

§ 497c. Ski area permit rental charge

(a) In general

The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading “SURVEYING THE PUBLIC LANDS” under the heading “UNDER THE DEPARTMENT OF THE INTERIOR” in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b) of this section. Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: Provided, That a permittee may, at the permittee’s option, use the calculation method set forth in subsection (b) of this section.

(b) Formula

(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee’s gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

- (A) 1.5 percent of all adjusted gross revenue below \$3,000,000;
- (B) 2.5 percent for adjusted gross revenue between \$3,000,000 and \$15,000,000;
- (C) 2.75 percent for adjusted gross revenue between \$15,000,000 and \$50,000,000; and
- (D) 4.0 percent for the amount of adjusted gross revenue that exceeds \$50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

$$\text{SAPF} = ((\text{LT} + \text{SS}) \text{STFP}) + \text{GRAF} = \text{AGR}; \text{AGR} \% \text{ BRACKETS}$$

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in this subsection shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 3 years after November 12, 1996, and every 5 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge required by this section is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) Payment

The rental charge set forth in subsection (b) of this section shall be due on June 1 of each year and shall be paid or prepaid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to November 12, 1996. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

(d) Effective date

The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to November 12, 1996, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this section, the rental charge paid by any individual permittee shall be—

- (1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this section, whichever is higher;
- (2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this section, whichever is higher; and
- (3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this section, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the adjusted gross revenue for the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this section.

(e) Non-national forest land operations

Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) "Revenue" and "sales" defined; limitations

To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets offered for commercial or other promotional purposes) for which the permittee does not receive money.

(g) Minimum rental charge

In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a) of this section, the permittee shall pay an annual minimum rental charge of \$2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Five-year phase-in of increase

Where the new rental charge provided for in subsection (b)(1) of this section results in an increase in permit rental charge greater than one-half of 1 percent of the permittee's adjusted gross revenue as determined under subsection (b)(1) of this section, the new rental charge shall be phased in over a five-year period in a manner providing for increases of approximately equal increments.

(i) Construction with National Environmental Policy Act of 1969

To reduce Federal costs in administering the provisions of this section, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(j) Withdrawal from mining laws

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after November 12, 1996, pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

(Pub. L. 104–333, div. I, title VII, § 701, Nov. 12, 1996, 110 Stat. 4182; Pub. L. 106–176, title I, § 117, Mar. 10, 2000, 114 Stat. 27.)

References in Text

Act of March 4, 1915, referred to in subsections (a) and (j), is act Mar. 4, 1915, ch. 144, 38 Stat. 1086, as amended. For complete classification of this Act to the Code, see Tables.

Act of June 4, 1897, referred to in subsections (a) and (j), is act June 4, 1897, ch. 2, 30 Stat. 11. For complete classification of this Act to the Code, see Tables.

The National Forest Ski Area Permit Act of 1986, referred to in subsections (a) and (j), is Pub. L. 99–522, Oct. 22, 1986, 100 Stat. 3000, which enacted section 497b of this title and provisions set out as a note under section 497b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 497b of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsection (i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The mining laws and the laws pertaining to mineral leasing, referred to in subsection (j), are classified generally to Title 30, Mineral Lands and Mining.

Laws pertaining to geothermal leasing, referred to in subsection (j), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

The public land laws, referred to in subsection (j), are classified generally to Title 43, Public Lands.

Amendments

2000—Subsec. (b)(3). Pub. L. 106–176, § 117(1), substituted “required by this section” for “legislated by this Act”.

Subsec. (d). Pub. L. 106–176, § 117(2), in introductory provisions, substituted “formula of this section” for “formula of this Act”, in pars. (1) to (3), substituted “this section” for “this Act”, and, in concluding provisions, inserted “adjusted gross revenue for the” before “1994–1995 base year” and substituted “this section” for “this Act”.

Subsec. (f). Pub. L. 106–176, § 117(3), inserted “offered for commercial or other promotional purposes” after “complimentary lift tickets”.

Subsec. (i). Pub. L. 106–176, § 117(4), substituted “this section” for “this Act”.

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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§ 497d. Recreation residence fees

The Secretary of Agriculture shall on and after November 14, 1997, phase in, over a 3-year period in equal annual installments, that portion of the fee increase for a recreation residence special use permit holder which is more than 100 percent of the previous year's fee: Provided, That no recreation residence fee may be increased any sooner than one year from the time the permittee has been notified by the Forest Service of the results of an appraisal which has been conducted for the purpose of establishing such fees: Provided further, That no increases in recreation residence fees on the Sawtooth National Forest will be implemented prior to January 1, 1999.

(Pub. L. 105-83, title III, § 343, Nov. 14, 1997, 111 Stat. 1604.)

Limitation on Increases in Recreation Residence Fees

Pub. L. 106-113, div. B, § 1000(a)(3) [title III, § 342], Nov. 29, 1999, 113 Stat. 1535, 1501A-202, provided that: "Notwithstanding section 343 of Public Law 105-83 [16 U.S.C. 497d], increases in recreation residence fees shall be implemented in fiscal year 2000 only to the extent that the fiscal year 2000 fees do not exceed the fiscal year 1999 fee by more than \$2,000."

Limitation on Recreation Residence Fee Increases on Sawtooth National Forest

Pub. L. 105-277, div. A, § 101(e) [title III, § 345], Oct. 21, 1998, 112 Stat. 2681-231, 2681-298, provided that: "Notwithstanding section 343 of Public Law 105-83 [16 U.S.C. 497d], increases in recreation residence fees on the Sawtooth National Forest shall be implemented in fiscal year 1999 only to the extent that such fee increases do not exceed 25 percent."

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§ 498. Cooperative work agreements: disposal of moneys received; refund of excess; payment from appropriation; conflict of interest

On or after June 30, 1914, all moneys received as contributions toward cooperative work in forest investigations, or the protection, management, and improvement of the National Forest System, shall be covered into the Treasury and shall constitute a special fund, which is appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said investigations, protection, management, or improvements by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in by them in excess of their share of the cost of said investigations, protection, management, or improvements. Payment for work undertaken pursuant to this section may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this section would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.

(June 30, 1914, ch. 131, 38 Stat. 430; May 29, 1928, ch. 901, § 1(99), 45 Stat. 993; Pub. L. 104–127, title III, § 372, Apr. 4, 1996, 110 Stat. 1015.)

Amendments

1996—Pub. L. 104–127 substituted “the protection, management, and improvement of the National Forest System” for “the protection and improvement of the national forests”, inserted “management,” after “protection,” in two places, and inserted at end “Payment for work undertaken pursuant to this section may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this section would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.”

1928—Act May 29, 1928, struck out provision which required that annual reports be made to Congress of moneys received as contributions for cooperative work.

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§ 499. Disposal of money received by or on account of Forest Service; refund of excess and moneys erroneously collected; receipts from permits

All money received by or on account of the Forest Service for timber, or from any other source of national-forest revenue, including moneys received from sale of products from or for the use of lands in national forests created under section 471 (b) ¹ of this title, and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title, shall be covered into the Treasury of the United States as a miscellaneous receipt and there is hereby appropriated and made available as the Secretary of Agriculture may direct out of any funds in the Treasury not otherwise appropriated, so much as may be necessary to make refunds to depositors of money heretofore or hereafter deposited by them to secure the purchase price on the sale of any products or for the use of any land or resources of the national forests in excess of amounts found actually due from them to the United States and also so much as may be necessary to refund or pay over to the rightful claimants such sums as may be found by the Secretary of Agriculture to have been erroneously collected for the use of any lands, or for timber or other resources sold from lands located within, but not a part of, the national forests, or for alleged illegal acts done upon such lands, which acts are subsequently found to have been proper and legal.

Footnotes

¹ See References in Text note below.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1270; Mar. 4, 1911, ch. 238, 36 Stat. 1253; Mar. 4, 1917, ch. 179, 39 Stat. 1149; June 7, 1924, ch. 348, § 9, 43 Stat. 655; May 29, 1928, ch. 901, § 1(97), 45 Stat. 993.)

References in Text

Section 471 (b) of this title, referred to in text, was repealed by section 704(a) of Pub. L. 94–579, title VII, Oct. 21, 1976, 90 Stat. 2792. For further details, see Codification note below.

Codification

Section is a combination provision the basis for which is Act Mar. 4, 1907, which superseded previous provisions relating to the disposal of money received from sale of products or use of any land or resources of the forest reserves, contained in Act Feb. 1, 1905, ch. 288, § 5, 33 Stat. 628.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Act Mar. 4, 1911, is the source of the last portion of the section beginning with the words, “and also so much as may be necessary,” etc. That Act provides that so much of the former Act “which provides for refunds by the Secretary of Agriculture to depositors of moneys to secure the purchase price of timber or the use of lands or resources of the national forests such sums as may be found to be in excess of the amounts found actually due the United States, be, and is hereby, amended hereafter to appropriate and to include so much;”.

The words of this section reading, “including moneys received from sale of products from or use of lands in national forests created under section 471 (b) of this title” were derived from the fourth sentence of section 9 of Act of June 7, 1924, which reads as follows: “All receipts from the sale of products from or for the use of lands in such national forests shall be covered into the Treasury as miscellaneous receipts, forest reserve fund, and shall be disposed of in like manner as the receipts from other national forests as provided by existing law.” Section 471 (b) of this title, referred to in text, was based on the first and fifth sentences of section 9 of the 1924 act, and was repealed by section 704(a) of Pub. L. 94–579. Section 505 of this title is based on the second and third sentences of section 9 of the 1924 act.

The words “and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title,” are from a provision of Act Mar. 4, 1917, which reads, “Hereafter, all moneys received on account of permits for hunting, fishing, or camping, on lands acquired under authority of said Act [Act Mar. 1, 1911, ch. 186, 36 Stat. 961] or any Amendment or extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests.”

Amendments

1928—Act May 29, 1928, struck out provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

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§ 500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: Provided, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term “moneys received” shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

(May 23, 1908, ch. 192, 35 Stat. 260; Mar. 1, 1911, ch. 186, § 13, 36 Stat. 963; June 30, 1914, ch. 131, 38 Stat. 441; Sept. 21, 1944, ch. 412, title II, § 212, 58 Stat. 737; Apr. 24, 1950, ch. 97, § 17(b), 64 Stat. 87; Pub. L. 94–588, § 16, Oct. 22, 1976, 90 Stat. 2961; Pub. L. 110–343, div. C, title VI, § 601(b), Oct. 3, 2008, 122 Stat. 3910.)

References in Text

Act of June 9, 1930, referred to in text, is act June 9, 1930, ch. 416, 46 Stat. 527, as amended, popularly known as the Knutson-Vandenberg Act, which is classified generally to sections 576, 576a, and 576b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 576 of this title and Tables.

Act of May 23, 1908, referred to in text, is act May 23, 1908, ch. 192, 35 Stat. 251, as amended. A portion of that act appearing at 35 Stat. 260 is classified to this section. For complete classification of this Act to the Code, see Tables.

Codification

“National forest” substituted in text for “forest reserve” the first, third and fourth time appearing, and for “reserve” the second time appearing, and “forest” substituted for “reserve”, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Section is a combination of acts May 23, 1908, as amended, and Mar. 1, 1911, as amended.

Prior Provisions

Provisions similar to those in this section were contained in the following prior appropriation acts:

June 28, 1944, ch. 296, 58 Stat. 444.

July 12, 1943, ch. 215, 57 Stat. 412.

July 22, 1942, ch. 516, 56 Stat. 680.

July 1, 1941, ch. 267, 55 Stat. 423.

Amendments

2008—Pub. L. 110–343, which directed substitution of “an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid” for “twenty-five percentum” and all that follows through “shall be paid” in provisions of both acts May 23, 1908, and Mar. 1, 1911, on which this section is based, was executed by making the substitution for “twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid”, to reflect the probable intent of Congress.

1976—Pub. L. 94–588 inserted provision that beginning Oct. 1, 1976, the term “moneys received” would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

1950—Act Apr. 24, 1950, struck out second proviso relating to limitation paid county.

1944—Act Sept. 21, 1944, inserted sentence relating to stumpage value of the timber.

1914—Act June 30, 1914, changed per centum to be paid to each State from five to twenty-five.

Short Title of 2000 Amendment

Pub. L. 106–393, § 1(a), Oct. 30, 2000, 114 Stat. 1607, which provided that the Act could be cited as the “Secure Rural Schools and Community Self-Determination Act of 2000”, was repealed by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893. See section 1 of Pub. L. 106–393, set out as a Short Title note under section 7101 of this title.

Savings Provision

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section, see section 701(j) of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

Secure Rural Schools and Community Self-Determination

Pub. L. 107–76, title VII, § 751, Nov. 28, 2001, 115 Stat. 739, provided for the determination of the full payment amount for each eligible State and eligible county for fiscal years 2002 to 2006 under former section 102 of Pub. L. 106–393, formerly set out below.

Pub. L. 106–393, §§ 2, 3, Oct. 30, 2000, 114 Stat. 1608, 1609, which related to findings and purposes and provided definitions for Pub. L. 106–393, was repealed by Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893. See sections 7101 and 7102 of this title.

Pub. L. 106–393, titles I–IV, Oct. 30, 2000, 114 Stat. 1611–1623, as amended by Pub. L. 110–28, title V, § 5401(c), May 25, 2007, 121 Stat. 166; Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893, provided that:

[SECS. 101 to 403. Repealed. Pub. L. 110–343, div. C, title VI, § 601(a), Oct. 3, 2008, 122 Stat. 3893. See sections 7111 to 7153 of this title.]

“SEC. 404. CONFORMING AMENDMENTS.”

[Repealed section 13982 of Pub. L. 103–66, which was set out as a note below, and section 13983 of Pub. L. 103–66, which was set out as a note under section 1181f of Title 43, Public Lands.]

Advisory Committee on Forest Counties Payments

Pub. L. 106–291, title III, § 320, Oct. 11, 2000, 114 Stat. 990, as amended by Pub. L. 108–319, § 1, Oct. 5, 2004, 118 Stat. 1212, provided that:

“(a) Definitions.—In this section:

“(1) Advisory committee.—The term ‘Advisory Committee’ means the Forest Counties Payments Committee established by this section.

“(2) Committees of jurisdiction.—The term ‘committees of jurisdiction’ means the Committee on Agriculture, the Committee on Resources [now Committee on Natural Resources], and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate.

“(3) Eligible county.—The term ‘eligible county’ means a county that, for one or more of the fiscal years 1986 through 1999, received—

“(A) a payment under title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), or the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.); or

“(B) a portion of an eligible State’s payment, as described in paragraph (4).

“(4) Eligible state.—The term ‘eligible State’ means a State that, for one or more of the fiscal years 1986 through 1999, received a payment under the sixth paragraph under the heading of ‘FOREST SERVICE’ in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), or section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

“(5) Federal lands.—The term ‘Federal lands’ means the following:

“(A) Lands within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609 (a)), exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012).

“(B) Such portions of the Oregon and California Railroad grant lands revested in the United States by the Act of June 9, 1916 (chapter 137; 39 Stat. 218), and the Coos Bay Wagon Road grant lands reconveyed to the United States by the Act of February 26, 1919 (chapter 47; 40 Stat. 1179), as are or may hereafter come under the jurisdiction of the Secretary of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site lands valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

“(6) Sustainable forestry.—The term ‘sustainable forestry’ means the practice of meeting the forest resource needs and values of the present without compromising the similar capability of future generations.

“(b) Establishment of Advisory Committee.—

“(1) Establishment required.—There is hereby established an advisory committee, to be known as the Forest Counties Payments Committee, to develop recommendations, consistent with sustainable forestry, regarding methods to ensure that States and counties in which Federal lands are situated receive adequate Federal payments to be used for the benefit of public education and other public purposes.

“(2) Members.—The Advisory Committee shall be composed of the following members:

TITLE 16 - Section 500 - Payment and evaluation of receipts to State or Territory for s...

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

“(A) The Chief of the Forest Service, or a designee of the Chief who has significant expertise in sustainable forestry.

“(B) The Director of the Bureau of Land Management, or a designee of the Director who has significant expertise in sustainable forestry.

“(C) The Director of the Office of Management and Budget, or the Director’s designee.

“(D) Two members who are elected members of the governing branches of eligible counties; one such member to be appointed by the President pro tempore of the Senate (in consultation with the chairmen and ranking members of the committees of jurisdiction of the Senate) and one such member to be appointed by the Speaker of the House of Representatives (in consultation with the chairmen and ranking members of the committees of jurisdiction of the House of Representatives) within 60 days of the date of the enactment of this Act [Oct. 11, 2000].

“(E) Two members who are elected members of school boards for, superintendents from, or teachers employed by, school districts in eligible counties; one such member to be appointed by the President pro tempore of the Senate (in consultation with the chairmen and ranking members of the committees of jurisdiction of the Senate) and one such member to be appointed by the Speaker of the House of Representatives (in consultation with the chairmen and ranking members of the committees of jurisdiction of the House of Representatives) within 60 days of the date of the enactment of this Act [Oct. 11, 2000].

“(3) Geographic representation.—In making appointments under subparagraphs (D) and (E) of paragraph (2), the President pro tempore of the Senate and the Speaker of the House of Representatives shall seek to ensure that the Advisory Committee members are selected from geographically diverse locations.

“(4) Organization of advisory committee.—

“(A) Chairperson.—The Chairperson of the Advisory Committee shall be selected from among the members appointed pursuant to subparagraphs (D) and (E) of paragraph (2).

“(B) Vacancies.—Any vacancy in the membership of the Advisory Committee shall be filled in the same manner as required by paragraph (2). A vacancy shall not impair the authority of the remaining members to perform the functions of the Advisory Committee under this section.

“(C) Compensation.—The members of the Advisory Committee who are not officers or employees of the United States, while attending meetings or other events held by the Advisory Committee or at which the members serve as representatives of the Advisory Committee or while otherwise serving at the request of the Chairperson of the Advisory Committee, shall each be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–15, as provided in the General Schedule, including traveltime, and while away from their homes or regular places of business, shall each be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

“(5) Staff and rules.—

“(A) Executive director.—The Advisory Committee shall have an Executive Director, who shall be appointed by the Advisory Committee and serve at the pleasure of the Advisory Committee. The Executive Director shall report to the Advisory Committee and assume such duties as the Advisory Committee may assign. The Executive Director shall be paid at a rate not in excess of the maximum rate of pay for grade GS–15, as provided in the General Schedule.

“(B) Other staff.—In addition to authority to appoint personnel subject to the provisions of title 5, United States Code, governing appointments to the competitive service, and to pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Advisory Committee shall have authority to enter into contracts with private or public organizations which may furnish the Advisory Committee with such administrative and technical personnel as may be necessary to carry out the functions of the Advisory Committee under this section. To the extent practicable, such administrative and technical personnel, and other necessary support services, shall be provided for the Advisory Committee by the Chief of the Forest Service and the Director of the Bureau of Land Management.

“(C) Committee rules.—The Advisory Committee may establish such procedural and administrative rules as are necessary for the performance of its functions under this section.

“(6) Federal agency cooperation.—The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Advisory Committee in the performance of its functions under this section and should furnish, as practicable, to the Advisory Committee information which the Advisory Committee deems necessary to carry out such functions.

“(c) Functions of Advisory Committee.—

“(1) Development of recommendations.—

“(A) In general.—The Advisory Committee shall develop recommendations for policy or legislative initiatives (or both) regarding alternatives for, or substitutes to, the payments required to be made to eligible States and eligible

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counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a) in order to provide a long-term method to generate annual payments to eligible States and eligible counties.

“(B) Reporting requirements.—Not later than 18 months after the date of the enactment of this Act [Oct. 11, 2000], the Advisory Committee shall submit to the committees of jurisdiction a final report containing the recommendations developed under this subsection. The Advisory Committee shall submit semiannual progress reports on its activities and expenditures to the committees of jurisdiction until the final report has been submitted.

“(2) Guidance for committee.—In developing the recommendations required by paragraph (1), the Advisory Committee shall—

“(A) evaluate the method by which payments are made to eligible States and eligible counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a), and related laws, and the use of such payments;

“(B) consider the impact on eligible States and eligible counties of revenues derived from the historic multiple use of the Federal lands;

“(C) evaluate the economic, environmental, and social benefits which accrue to counties containing Federal lands, including recreation, natural resources industries, and the value of environmental services that result from Federal lands; and

“(D) evaluate the expenditures by counties on activities on Federal lands which are Federal responsibilities.

“(3) Monitoring and related reporting activities.—The Advisory Committee shall monitor the payments made to eligible States and eligible counties under the provisions of law referred to in paragraphs (3) and (4) of subsection (a), and related laws, and submit to the committees of jurisdiction an annual report describing the amounts and sources of such payments and containing such comments as the Advisory Committee may have regarding such payments.

“(4) Testimony.—The Advisory Committee shall make itself available for testimony or comments on the reports required to be submitted by the Advisory Committee and on any legislation or regulations to implement any recommendations made in such reports in any congressional hearings or any rulemaking or other administrative decision process.

“(d) Federal Advisory Committee Act Requirements.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Advisory Committee.

“(e) Termination of Advisory Committee.—The Advisory Committee shall terminate on September 30, 2007.

“(f) Funding Source.—At the request of the Executive Director of the Advisory Committee, the Secretary of Agriculture shall provide funds from any account available to the Secretary, not to exceed \$200,000 in fiscal year 2001, for the work of the Advisory Committee necessary to meet the requirements of this section.”

[Pub. L. 108–319, § 1, Oct. 5, 2004, 118 Stat. 1212, provided that the amendment made by section 1 to section 320 of Pub. L. 106–291, set out above, is effective as of Oct. 11, 2003.]

Sharing of Forest Service Timber Sale Receipts

Pub. L. 103–66, title XIII, § 13982, Aug. 10, 1993, 107 Stat. 681, as amended by Pub. L. 103–443, § 1(a), Nov. 2, 1994, 108 Stat. 4631, which related to the amount of payments for each fiscal year from 1994 through 2003 that the Secretary of the Treasury was to make, in lieu of making the 25-percent payments to States, for the benefit of counties eligible to receive the 25-percent payments to States, was repealed by Pub. L. 106–393, title IV, § 404, Oct. 30, 2000, 114 Stat. 1623.

Distribution of Moneys Received From Timber Salvage Sales Program

Pub. L. 102–381, title II, Oct. 5, 1992, 106 Stat. 1401, provided: “That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1993 and subsequent fiscal years shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.”

Similar provisions were contained in the following appropriations act:

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1402.

.....

§ 501. Expenditures from receipts for roads and trails; cooperation with State authorities; evaluation of receipts

On or after Mar. 4, 1913, ten per centum of all moneys received from the national forests during each fiscal year shall be available at the end thereof, to be expended by the Secretary of Agriculture

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for the construction and maintenance of roads and trails within the national forests in the States from which such proceeds are derived; but the Secretary of Agriculture may, whenever practicable, in the construction and maintenance of such roads, secure the cooperation or aid of the proper State or Territorial authorities in the furtherance of any system of highways of which such roads may be made a part. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber.

(Mar. 4, 1913, ch. 145, § 1 (part), 37 Stat. 843; Sept. 21, 1944, ch. 412, title II, § 212, 58 Stat. 737.)

Prior Provisions

Provisions similar to those in this section were contained in the following prior appropriation acts:

- June 28, 1944, ch. 296, 58 Stat. 444.
- July 12, 1943, ch. 215, 57 Stat. 412.
- July 22, 1942, ch. 516, 56 Stat. 680.
- July 1, 1941, ch. 267, 55 Stat. 423.

Amendments

1944—Act Sept. 21, 1944, inserted sentence relating to stumpage value of the timber.

Savings Provision

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section, see section 701(j) of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

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§ 501a. Omitted

Codification

Section, acts June 30, 1939, ch. 253, title I, 53 Stat. 956; June 25, 1940, ch. 421, 54 Stat. 547, related to the evaluation of receipts for sections 500 and 501 of this title. See sections 500 and 501 of this title.

.....

§ 502. Rental of property for Forest Service; forage, care, and housing of animals; storage of vehicles and other equipment; pack stock; loss, damage, or destruction of horses, vehicles, and other equipment

The Secretary of Agriculture is authorized, under such regulations as he may prescribe:

- (a) To hire or rent property from employees of the Forest Service for the use of that Service whenever the public interest will be promoted thereby.
- (b) To provide forage, care, and housing for animals, and storage for vehicles and other equipment obtained by the Forest Service for the use of that service from employees.
- (c) To contract with public and private agencies, corporations, firms, associations, or individuals to train, provide forage, care, and housing for, and to work pack stock owned and held in reserve by the Forest Service for fire emergency purposes and as all or part of the consideration therefor to permit such contractors to use the stock for their own purposes during the periods of nonuse by the Forest Service.
- (d) To reimburse owners for loss, damage, or destruction of horses, vehicles, and other equipment obtained by the Forest Service for the use of that service from employees or other private owners: Provided, That payments or reimbursements herein authorized may be made from the applicable appropriations for the Forest Service: And provided further, That except for fire fighting emergencies no reimbursement herein authorized shall be made in an amount in excess of \$50 to persons who were

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employees of the Forest Service prior to the time the equipment was obtained or \$2,500 in any other case, unless the equipment was made available under a written agreement, contract, or lease.

(Mar. 4, 1913, ch. 145, § 1 (part), 37 Stat. 843; Jan. 31, 1931, ch. 76, 46 Stat. 1052; Pub. L. 85-464, § 1, June 20, 1958, 72 Stat. 216; Pub. L. 89-270, Oct. 19, 1965, 79 Stat. 991; Pub. L. 97-375, title I, § 103(b), Dec. 21, 1982, 96 Stat. 1819.)

Amendments

1982—Subsec. (a). Pub. L. 97-375 struck out provision that the Secretary transmit to Congress a statement of rentals under the authority of this paragraph as soon as practicable after the end of each fiscal year.

1965—Subsec. (a). Pub. L. 89-270 required the transmittal of statement of rentals during the fiscal year to congressional committees and omitted restriction against use of hired or rented property by the employee from whom hired or rented and \$3,000 limitation on aggregate amount of payment in any one year to permanent employees, exclusive of fire emergency obligations.

1958—Subsecs. (c), (d). Pub. L. 85-464 added subsec. (c), redesignated former subsec. (c) as (d) and authorized reimbursement in an amount not in excess of \$2,500 in any case where the person is not an employee of the Forest Service at the time the equipment is obtained.

1931—Act Jan. 31, 1931, substituted “The Secretary of Agriculture is authorized, under such regulations as he may prescribe” for prior provision which authorized Secretary to reimburse owners of private property lost or damaged while being used for necessary official business.

Subsecs. (a) to (c). Act Jan. 31, 1931, added subsecs. (a) to (c).

.....

§ 503. Repealed. Pub. L. 85-767, § 2[1], Aug. 27, 1958, 72 Stat. 919

Section, act July 11, 1916, ch. 241, § 8, 39 Stat. 358, related to appropriations for roads and trails, and cooperative agreements by the Secretary of Agriculture and States.

.....

§ 503a. Omitted

Codification

Section, acts May 16, 1928, ch. 572, 45 Stat. 569; Feb. 16, 1929, ch. 227, 45 Stat. 1220, which related to purpose for which appropriations for carrying out the provisions of section 503 of this title were available, was omitted in view of repeal of section 503 of this title.

.....

§ 504. Purchases of tree seeds, cones, forage plant seed, and nursery stock for national forests

The provisions of section 5 of title 41 shall not apply to any purchase by the Forest Service of forest-tree seed or cones or of forage plant seed when the amount involved does not exceed \$10,000, nor to any purchase of forest-tree nursery stock when the amount involved does not exceed \$500, whenever, in the discretion of the Secretary of Agriculture, such method is in the public interest.

(June 30, 1914, ch. 131, 38 Stat. 429; Apr. 24, 1950, ch. 97, § 2, 64 Stat. 83.)

Amendments

1950—Act Apr. 24, 1950, increased open market purchase limitation from \$500 to \$10,000 on forest-tree seed or cones or forage plant seed.

.....

§ 504a. Sale of forest-tree seed and nursery stock to States and political subdivisions; disposition of moneys; exchanges; limitation

The Secretary of Agriculture is authorized, subject to such conditions as he may prescribe, to sell forest-tree seed and nursery stock to States and political subdivisions thereof and to public agencies of other countries, at rates not less than the actual or estimated cost to the United States of procuring or producing such seed or nursery stock, moneys received from the sale thereof to be credited to the appropriation or appropriations of the Forest Service currently available for the procurement or production of seed or nursery stock at the time such moneys are deposited: Provided, That the Secretary of Agriculture may exchange with such public agencies forest-tree seed and nursery stock for forest-tree seed or nursery stock of the same or different species upon a determination that such exchange is in the interest of the United States and that the value of the property given in exchange does not exceed the value of the property received: Provided further, That no nursery stock shall be sold or exchanged under this section as ornamental or other stock for landscape planting of the types commonly grown by established commercial nurserymen.

(Apr. 24, 1950, ch. 97, § 9, 64 Stat. 85.)

.....

§ 505. Use of national forests established on land reserved for purposes of national defense; maintenance available

Where a national forest is established under section 471 (b) of this title on land previously reserved for the Army or Navy for purposes of national defense the land shall remain subject to the unhampered use of the Department of the Army or Navy Department for said purposes and nothing in this section or section 471 (b) of this title shall be construed to relinquish the authority over such lands for purposes of national defense now vested in the department for which the lands were formerly reserved. Any moneys available for the maintenance, improvement, protection, construction of highways and general administration of the national forests shall be available for expenditure on national forests created under this section.

(June 7, 1924, ch. 348, § 9, 43 Stat. 655; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

Codification

Section is based on the second and third sentences of section 9 of act June 7, 1924. Section 471 (b) of this title, referred to in text, was based on the first and fifth sentences of section 9 of the 1924 act, and was repealed by section 704(a) of Pub. L. 94-579. Section 499 of this title is based in part on the fourth sentence of section 9 of the 1924 act.

Change of Name

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

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§ 505a. Interchange of lands between Department of Agriculture and military departments of Department of Defense; report to Congress

The Secretary of Agriculture with respect to National Forest System lands and the Secretary of a military department with respect to lands under the control of the military department which lie

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within or adjacent to the exterior boundaries of a unit of the National Forest System are authorized, subject to any applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended, to interchange such lands, or any part thereof, without reimbursement or transfer of funds whenever they shall determine that such interchange will facilitate land management and will provide maximum use thereof for authorized purposes: Provided, That no such interchange of lands shall become effective until forty-five days (counting only days occurring during any regular or special session of the Congress) after the submission to the Congress by the respective Secretaries of notice of intention to make the interchange.

(July 26, 1956, ch. 736, § 1, 70 Stat. 656; Pub. L. 100-409, § 7(a), (b), Aug. 20, 1988, 102 Stat. 1091.)

References in Text

The Federal Property and Administrative Services Act of 1949, as amended, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107-217, §§ 1, 6 (b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

Amendments

1988—Pub. L. 100-409 substituted “National Forest System lands” for “national forest lands” and “a unit of the National Forest System” for “a national forest”.

.....

§ 505b. Laws applicable

Any National Forest System lands which are transferred to a military department in accordance with this section and section 505a of this title shall be thereafter subject only to the laws applicable to other lands within the military installation or other public works project for which such lands are required and any lands which are transferred to the Department of Agriculture in accordance with this section and section 505a of this title shall become subject to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended. Lands interchanged under the authority of this section and section 505a of this title shall be deemed to include interests in lands.

(July 26, 1956, ch. 736, § 2, 70 Stat. 657; Pub. L. 100-409, § 7(a), (c), Aug. 20, 1988, 102 Stat. 1091.)

References in Text

Act of March 1, 1911, referred to in text, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Amendments

1988—Pub. L. 100-409 substituted “National Forest System lands” for “national forest lands” and inserted provision that lands interchanged under authority of this section and section 505a of this title be deemed to include interests in lands.

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§§ 506 to 508. Repealed. Pub. L. 87-869, § 4, Oct. 23, 1962, 76 Stat. 1157

Section 506, acts June 11, 1906, ch. 3074, § 1, 34 Stat. 233; May 30, 1908, ch. 233, 35 Stat. 554; Aug. 10, 1912, ch. 284, 37 Stat. 287; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized and directed the Secretary of Agriculture to classify national forest lands chiefly valuable for agriculture and which might be occupied for agricultural purposes without injury to the national forest and which were not needed

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for public purposes and to list them with the Secretary of the Interior for homestead entry and required such Secretary to declare the agricultural lands open to homestead entry.

Section 507, act June 11, 1906, ch. 3074, § 2, 34 Stat. 234, provided for additional homestead right of entry to former settlers.

Section 508, act June 11, 1906, ch. 3074, § 3, 34 Stat. 234, provided for entries in Black Hills National Forest subject to mining laws and to appropriation of waters.

.....

§ 508a. Omitted

Codification

Section, act Feb. 15, 1927, ch. 152, 44 Stat. 1099, related to exchange of lands in Black Hills National or Harney National Forest. See Codification note set out under sections 486a to 486w of this title.

.....

§ 508b. National forests in Minnesota; authority to prospect, develop, mine, remove, and utilize mineral resources

Where, through withdrawal or reservation or by statutory limitation or otherwise, all or any part of the mineral resources in public-domain lands or lands received in exchange for public-domain lands or for timber on such lands situated within the exterior boundaries of the national forests in Minnesota, are not subject to development or utilization under the mining laws of the United States or the mineral leasing laws, and for the development and utilization of which no other statutory authority exists, the Secretary of the Interior is authorized, under general regulations to be prescribed by him and upon such terms and for specified periods or otherwise as he may deem to be for the best interests of the United States, to permit the prospecting for and the development and utilization of such mineral resources: Provided, That the development and utilization of such mineral deposits shall not be permitted by the Secretary of the Interior except with the consent of the Secretary of Agriculture. All receipts derived from permits or leases issued under the authority of this section for prospecting for and the development and utilization of such mineral resources shall be paid into the same funds or accounts in the Treasury and shall be distributed in the same manner as prescribed for national forest revenue by sections 499 to 501 of this title.

(June 30, 1950, ch. 430, 64 Stat. 311.)

References in Text

The mining laws of the United States and the mineral leasing laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

Transfer of Functions

Functions of Secretary of the Interior under this section, with respect to use and disposal from lands under jurisdiction of Secretary of Agriculture of those mineral materials which Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of Title 30, Mineral Lands and Mining, transferred to Secretary of Agriculture, see Pub. L. 86-509, June 11, 1960, 74 Stat. 205, set out as a Transfer of Functions note under section 2201 of Title 7, Agriculture.

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§ 509. Repealed. Pub. L. 87-869, § 4, Oct. 23, 1962, 76 Stat. 1157

Section, act June 11, 1906, ch. 3074, § 5, 34 Stat. 234, related to future settlements on lands within reserves and rights of former bona fide settlers.

.....

§§ 510, 510a. Omitted

Codification

Section 510, act Aug. 8, 1916, ch. 295, 39 Stat. 440, which applied the provisions of sections 506 to 508 and 509 of this title to lands within the national forests in Lawrence and Pennington Counties in South Dakota, was omitted because of the repeal of sections 506 to 508 and 509 of this title.

Section 510a, act June 13, 1930, ch. 481, 46 Stat. 583, prohibiting the acceptance of applications for the classification and listing of lands in the Custer National Forest for homestead entry with provision for the Secretary of Agriculture to list, in his discretion, limited tracts when in his opinion such action would be in the public interest and would not be injurious to other settlers or users of the national forest, has been omitted in view of the repeal by Pub. L. 87-869, § 4, Oct. 23, 1962, 76 Stat. 1157, of the provision under which such classification and listing were carried out.

.....

§ 511. Reinstatement of entries canceled or relinquished

All homestead entries which have been canceled or relinquished, or are invalid solely because of the erroneous allowance of such entries after the withdrawal of lands for national-forest purposes, may be reinstated or allowed to remain intact, but in the case of entries canceled prior to March 3, 1911, applications for reinstatement must have been filed in the proper local land office prior to July 1, 1912.

(Mar. 3, 1911, ch. 225, § 1, 36 Stat. 1084.)

.....

§ 512. Omitted

Codification

Section, acts Mar. 4, 1913, ch. 145, § 1[part], 37 Stat. 842; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, which directed the Secretary of Agriculture to select, classify, and segregate lands within the boundaries of national forests that might be opened to settlement and entry under the homestead laws applicable to the national forests, has been omitted in view of the repeal of the Forest Reserve Homestead Act “as amended and supplemented” by Pub. L. 87-869, § 4, Oct. 23, 1962, 76 Stat. 1157, which had provided the basic framework under which reserved public domain lands suitable for farming in the national forests had been made available for homesteading.

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§ 513. Repealed. Pub. L. 94-588, § 17(a)(1), (2), Oct. 22, 1976, 90 Stat. 2961

Section, acts Mar. 1, 1911, ch. 186, §§ 4, 5, 36 Stat. 962; Sept. 21, 1950, ch. 966, 64 Stat. 872, provided for creation and membership of National Forest Reservation Commission.

Transfer of Functions

Section 17(a)(1) of Pub. L. 94-588 provided in part that all functions of National Forest Reservation Commission are transferred to the Secretary of Agriculture.

.....

§ 514. Repealed. Pub. L. 94-588, § 17(a)(6), Oct. 22, 1976, 90 Stat. 2962

Section, acts Mar. 1, 1911, ch. 186, § 14, 36 Stat. 963; June 26, 1934, ch. 756, § 2, 48 Stat. 1225, authorized appropriations for payment of expenses of National Forest Reservation Commission.

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§ 515. Examination, location, and purchase of forested, cut-over, or denuded lands; consent of State legislature to acquisition of land by the United States

The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams.

(Mar. 1, 1911, ch. 186, § 6, 36 Stat. 962; June 7, 1924, ch. 348, § 6, 43 Stat. 654; Pub. L. 94–588, § 17(a)(3), Oct. 22, 1976, 90 Stat. 2961.)

References in Text

This Act, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Codification

Act Mar. 1, 1911, prior to its amendment, authorized the Secretary to study lands necessary to the regulation of the flow of navigable streams. This authority was enlarged by act June 7, 1924, to include in its scope “lands necessary for the production of timber”.

Amendments

1976—Pub. L. 94–588 substituted “The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams” for “The Secretary of Agriculture is authorized and directed to examine, locate, and recommend for purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber and to report to the National Forest Reservation Commission the results of such examination; but before any lands are purchased by the commission said lands shall be examined by the Secretary of Agriculture, in cooperation with the Director of the Geological Survey, and a report made by them to the commission showing that the control of such lands by the Federal Government will promote or protect the navigation of streams or by the Secretary of Agriculture showing that such control will promote the production of timber thereon”.

.....

§ 516. Exchange of lands in the public interest; equal value; cutting and removing timber; publication of contemplated exchange

When the public interests will be benefited thereby, the Secretary of Agriculture is hereby authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests which, in his opinion, are chiefly valuable for the purposes of this Act, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him: Provided, That before any such exchange is effected notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive weeks in some

newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in such exchanges shall be cut and removed under the laws and regulations relating to such national forests, and under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands so accepted by the Secretary of Agriculture shall, upon acceptance, become parts of the national forests within whose exterior boundaries they are located, and be subjected to all provisions of this Act.

(Mar. 1, 1911, ch. 186, § 7, 36 Stat. 962; Mar. 3, 1925, ch. 473, 43 Stat. 1215; Pub. L. 94-588, § 17(a)(4), Oct. 22, 1976, 90 Stat. 2961.)

References in Text

This Act, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Amendments

1976—Pub. L. 94-588 substituted “When the public interests will be benefited thereby, the Secretary of Agriculture is hereby authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests which, in his opinion, are chiefly valuable for the purposes of this Act, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him: Provided, That before” for “The Secretary of Agriculture is authorized to purchase, in the name of the United States, such lands as have been approved for purchase by the National Forest Reservation Commission at the price or prices fixed by said commission. No deed or other instrument of conveyance shall be accepted or approved by the Secretary of Agriculture under this section until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams. With the approval of the National Forest Reservation Commission as provided by this section and section 515 of this title, and when the public interests will be benefited thereby, the Secretary of Agriculture is authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests acquired under said sections which, in his opinion, are chiefly valuable for the purposes as therein stated, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him. Before”.

1925—Act Mar. 3, 1925, inserted provisions covering the exchange of lands.

.....

§ 517. Title to lands to be acquired

The Secretary of Agriculture may do all things necessary to secure the safe title in the United States to the lands to be acquired under this Act, but no payment shall be made for any such lands until the title shall be satisfactory to the Attorney General or his designee and shall be vested in the United States.

(Mar. 1, 1911, ch. 186, § 8 (part), 36 Stat. 962; Pub. L. 91-393, § 3, Sept. 1, 1970, 84 Stat. 835.)

References in Text

This Act, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Codification

Section was amended by act Dec. 11, 1926, ch. 5, 44 Stat. 919. The amendment added a proviso at the end of this section which is set out as section 517a of this title.

Amendments

1970—Pub. L. 91–393 inserted “or his designee” after “Attorney General”.

.....

§ 517a. Payment of awards in condemnation proceedings

In condemnation proceedings, heretofore or hereafter prosecuted, for the acquisition of lands under this Act, in which a decree is entered vesting title thereto in the United States upon payment of the award into the registry of the court, the Secretary of Agriculture is authorized to make such payment when advised by the Attorney General that the proceedings and the decree are regular.

(Mar. 1, 1911, ch. 186, § 8 (part), 36 Stat. 962; Dec. 11, 1926, ch. 5, 44 Stat. 919.)

References in Text

This Act, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Amendments

1926—Act Dec. 11, 1926, amended act Mar. 1, 1911, constituting section 517 of this title, by inserting text of this section as a proviso thereof.

.....

§ 518. Acquisition of lands not defeated by rights-of-way, easements, and reservations

Such acquisition by the United States shall in no case be defeated because of located or defined rights of way, easements, and reservations, which, from their nature will, in the opinion of the Secretary of Agriculture, in no manner interfere with the use of the lands so encumbered, for the purposes of this Act. Such rights of way, easements, and reservations retained by the owner from whom the United States receives title, shall be subject to the rules and regulations prescribed by the Secretary of Agriculture for their occupation, use, operation, protection, and administration, and such rules and regulations shall be expressed in and made part of the written instrument conveying title to the lands to the United States; and the use, occupation, and operation of such rights of way, easements, and reservations shall be under, subject to, and in obedience with the rules and regulations so expressed.

(Mar. 1, 1911, ch. 186, § 9, 36 Stat. 962; Mar. 4, 1913, ch. 145, § 1 (part), 37 Stat. 855; Pub. L. 94–588, § 17(a)(5), Oct. 22, 1976, 90 Stat. 2962.)

References in Text

This Act, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Amendments

1976—Pub. L. 94–588 struck out “the National Forest Reservation Commission and” after “in the opinion of”.

1913—Act Mar. 4, 1913, amended act Mar. 1, 1911, generally to provide that acquisition of lands under this section would not be defeated by rights of way, easements, and reservations retained by the owner from whom title is received.

.....

§ 519. Agricultural lands included in tracts acquired; sale for homesteads

Inasmuch as small areas of land chiefly valuable for agriculture may of necessity or by inadvertence be included in tracts acquired under this Act, the Secretary of Agriculture may, in his discretion, and he is authorized, upon application or otherwise, to examine and ascertain the location and extent of such areas as in his opinion may be occupied for agricultural purposes without injury to the forests or to stream flow and which are not needed for public purposes, and may list and describe the same by metes and bounds, or otherwise, and offer them for sale as homesteads at their true value, to be fixed by him, to actual settlers, in tracts not exceeding eighty acres, in area, under such rules and regulations as he may prescribe; and in case of such sale the jurisdiction over the lands sold shall, ipso facto, revert to the State in which the lands sold lie. And no right, title, interest, or claim in or to any lands acquired under this Act, or the waters thereon, or the products, resources, or use thereof after such lands shall have been so acquired, shall be initiated or perfected, except as in this section provided.

(Mar. 1, 1911, ch. 186, § 10, 36 Stat. 962; Pub. L. 86-509, § 1(k), June 11, 1960, 74 Stat. 205.)

References in Text

This Act, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Codification

“Such rules and regulations as he may prescribe” was substituted for “such joint rules and regulations as the Secretary of Agriculture and the Secretary of the Interior may prescribe” in view of the transfer of functions under this section to the Secretary of Agriculture from the Secretary of the Interior by section 1(k) of Pub. L. 86-509, set out as a note under section 2201 of Title 7, Agriculture.

.....

§ 519a. Transfer of forest reservation lands for military purposes

If any of the lands purchased or to be purchased by the United States under the provisions of the Act approved March 1, 1911, as amended, within the limits of townships 1, 2, and 3 north, ranges 9, 10, 11, 12, and 13, in Forest and Perry Counties, State of Mississippi, are determined to be chiefly valuable and necessary for a National Guard encampment and related military purposes, the Secretary of Agriculture may, and he is, authorized to convey full title to said lands to the State of Mississippi or the Department of the Army: Provided, That there is paid into the Treasury of the United States, or made available by transfer on the books of said Treasury, sums of money equal to the full amounts expended by the Department of Agriculture for the purchase of said lands, and the money so paid into or transferred on the books of the Treasury shall be available for expenditure by the Secretary of Agriculture for the purchase of other lands under the provisions of said Act of March 1, 1911, as amended.

(Mar. 2, 1935, ch. 21, 49 Stat. 37; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

References in Text

Act approved March 1, 1911, as amended, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Codification

The words “with the consent and approval of the National Forest Reservation Commission established by section 4 of said Act of March 1, 1911 [16 U.S.C. 513]”, which appeared immediately following the first reference to the Secretary of Agriculture, have been omitted as obsolete. Section 4 of the 1911 Act was repealed, and all functions of the National Forest Reservation Commission were transferred to the Secretary of Agriculture, by section 17(a)(1) of Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2961.

Change of Name

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

.....

§ 520. Regulations as to mineral resources

The Secretary of Agriculture is authorized, under general regulations to be prescribed by him, to permit the prospecting, development, and utilization of the mineral resources of the lands acquired under the Act of March first, nineteen hundred and eleven, known as the Weeks law, upon such terms and for specified periods or otherwise, as he may deem to be for the best interests of the United States; and all moneys received on account of charges, if any, made under this Act shall be disposed of as is provided by existing law for the disposition of receipts from national forests.

(Mar. 4, 1917, ch. 179, 39 Stat. 1150; 1946 Reorg. Plan No. 3, § 402, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1099; Pub. L. 86–509, § 1(I), June 11, 1960, 74 Stat. 205.)

References in Text

The Act of March first, nineteen hundred and eleven, known as the Weeks Law, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of the Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Transfer of Functions

Functions of Secretary of Agriculture with respect to uses of mineral deposits under this section transferred to Secretary of the Interior by section 402 of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees, which provided that mineral development on such lands shall be authorized by Secretary of the Interior only when he is advised by Secretary of Agriculture that such development will not interfere with purposes for which land was acquired and only in accordance with such conditions as may be specified by Secretary of Agriculture in order to protect such purposes.

For provisions concerning crediting and distribution of revenues and access to title records, see text of Reorg. Plan No. 3 of 1946.

Functions of Secretary of the Interior under section 402 of Reorg. Plan No. 3 of 1946, with respect to use and disposal from lands under jurisdiction of Secretary of Agriculture of those mineral materials which Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of Title 30, Mineral Lands and Mining, transferred to Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of Title 7, Agriculture.

.....

§ 521. Lands acquired to be reserved, held, and administered as national forest lands; designation

Subject to the provisions of section 519 of this title the lands acquired under this Act shall be permanently reserved, held, and administered as national forest lands under the provisions of section 471¹ of this title and acts supplemental to and amendatory thereof. And the Secretary of

Agriculture may from time to time divide the lands acquired under this Act into such specific national forests and so designate the same as he may deem best for administrative purposes.

Footnotes

¹ See References in Text note below.

(Mar. 1, 1911, ch. 186, § 11, 36 Stat. 963.)

References in Text

This Act, referred to in text, means act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Section 471 of this title, referred to in text, was in the original a reference to section 24 of act Mar. 3, 1891, ch. 561, 26 Stat. 1103, and was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

.....

§ 521a. Administration, management, and consolidation of certain lands

In order to facilitate the administration, management, and consolidation of the national forests, all lands of the United States within the exterior boundaries of national forests which were or hereafter are acquired for or in connection with the national forests or transferred to the Forest Service, Department of Agriculture, for administration and protection substantially in accordance with national forest regulations, policies, and procedures, excepting

- (a) lands reserved from the public domain or acquired pursuant to laws authorizing the exchange of land or timber reserved from or part of the public domain, and
- (b) lands within the official limits of towns or cities, notwithstanding the provisions of any other Act, are made subject to the Weeks Act of March 1, 1911 (36 Stat. 961), as amended, and to all laws, rules, and regulations applicable to national forest lands acquired thereunder: Provided, That nothing in this section shall be construed as
 - (1) affecting the status of lands administered by the Secretary of Agriculture under the Act of June 24, 1954 (68 Stat. 270), and which are revested Oregon and California Railroad grant lands, administered as national forest lands, or
 - (2) changing the disposition of revenues from or authorizing the exchange of the lands, or the timber thereon, described in the Act of February 11, 1920 (ch. 69, 41 Stat. 405), the Act of September 22, 1922 (ch. 407, 42 Stat. 1019), and the Act of June 4, 1936 (ch. 494, 49 Stat. 1460).

(Pub. L. 85–862, Sept. 2, 1958, 72 Stat. 1571.)

References in Text

The Weeks Act of March 1, 1911, referred to in text, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Act June 24, 1954, referred to in text, is classified to sections 1181f and 1181g to 1181j of Title 43, Public Lands.

Act February 11, 1920, referred to in text, related to exchanges of lands in or adjacent to Siuslaw National Forest and was not classified to the Code. See Codification note set out under sections 486a to 486w of this title.

Act September 22, 1922, referred to in text, is classified to section 487 of this title.

Act June 4, 1936, referred to in text, is classified to section 487a of this title.

.....

§ 521b. Report of Secretary of Agriculture prior to purchase or exchange of land; contents; waiting period

For purposes of providing information that will aid the Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary of Agriculture may not hereafter enter into any land purchase or exchange relating to the National Forest System of \$150,000 or more for the types of lands which have been heretofore approved by the National Forest Reservation Commission until after 30 days from the date upon which a detailed report of the facts concerning such proposed purchase or transfer is submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate or such earlier time as may be approved by both such committees. Such report shall contain at least the following:

- (1) guidelines utilized by the Secretary in determining that the land should be acquired;
- (2) the location and size of the land;
- (3) the purchase price of the land and the criteria used by the Secretary in determining such price;
- (4) the person from whom the land is being acquired; and
- (5) any adjustment made by the Secretary of relative value pursuant to section 1716 (f)(2)(B)(ii) of title 43.

(Pub. L. 94-588, § 17(b), Oct. 22, 1976, 90 Stat. 2962; Pub. L. 100-409, § 6, Aug. 20, 1988, 102 Stat. 1090; Pub. L. 103-437, § 6(r), Nov. 2, 1994, 108 Stat. 4587.)

References in Text

The National Forest Reservation Commission, referred to in text, was abolished and the functions thereof were transferred to the Secretary of Agriculture by section 17(a)(1) of Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2961.

Amendments

1994—Pub. L. 103-437 in introductory provisions substituted “Agriculture, Nutrition, and Forestry of the Senate” for “Agriculture and Forestry of the Senate”.

1988—Pub. L. 100-409 substituted “\$150,000” for “\$25,000” in introductory provisions and added par. (5).

.....

§ 521c. Definitions

For purposes of sections 521c to 521i of this title—

- (1) the term “person” includes any State or any political subdivision or entity thereof;
- (2) the term “interchange” means a land transfer in which the Secretary and another person exchange titles to lands or interests in lands of approximately equal value where the Secretary finds that such a value determination can be made without a formal appraisal and under such regulations as the Secretary may prescribe; and
- (3) the term “Secretary” means the Secretary of Agriculture of the United States.

(Pub. L. 97-465, § 1, Jan. 12, 1983, 96 Stat. 2535.)

.....

§ 521d. Sale, exchange, or interchange of National Forest System land

The Secretary is authorized, when the Secretary determines it to be in the public interest—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(1) to sell, exchange, or interchange by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in and to National Forest System lands described in section 521e of this title; and

(2) to accept as consideration for the lands sold, exchanged, or interchanged other lands, interests in lands, or cash payment, or any combination of such forms of consideration, which, in the case of conveyance by sale or exchange, is at least equal in value, including the mineral estate, or, in the case of conveyance by interchange, is of approximately equal value, including the mineral estate, to the lands being conveyed by the Secretary. The Secretary shall insert in any such quitclaim deed such terms, covenants,¹ conditions, and reservations as the Secretary deems necessary to ensure protection of the public interest, including protection of the scenic, wildlife, and recreation values of the National Forest System and provision for appropriate public access to and use of lands within the System. The preceding sentence shall not be applicable to deeds issued by the Secretary to lands outside the boundary of units of the National Forest System.

Footnotes

¹ So in original. Probably should be “covenants.”

(Pub. L. 97-465, § 2, Jan. 12, 1983, 96 Stat. 2535.)

.....

§ 521e. Small parcels and road rights-of-way

The National Forest System lands which may be sold, exchanged, or interchanged under sections 521c to 521i of this title are those the sale or exchange of which is not practicable under any other authority of the Secretary, which have a value as determined by the Secretary of not more than \$150,000, and which are—

(1) parcels of forty acres or less which are interspersed with or adjacent to lands which have been transferred out of Federal ownership under the mining laws and which are determined by the Secretary, because of location or size, not to be subject to efficient administration;

(2) parcels of ten acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description indicating that there was not such encroachment; or

(3) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States, subject to the first right of abutting landowners to acquire such rights-of-way.

(Pub. L. 97-465, § 3, Jan. 12, 1983, 96 Stat. 2535.)

.....

§ 521f. Costs of conveyance and value of improvements

Any person to whom lands are conveyed under sections 521c to 521i of this title shall bear all reasonable costs of administration, survey, and appraisal incidental to such conveyance, as determined by the Secretary. In determining the value of any lands or interest in lands to be conveyed under sections 521c to 521i of this title, the Secretary may, in those cases in which the Secretary determines it would be in the public interest, exclude from such determination the value of any improvements to the lands made by any person other than the Government. In the case of road rights-of-way conveyed under sections 521c to 521i of this title, the person to whom the right-of-way is conveyed shall reimburse the United States for the value of any improvements to such right-of-way which may have been made by the United States. The Secretary may, in those cases in which the Secretary determines that it would be in the public interest, waive payment by

any person of costs incidental to any conveyance authorized by sections 521c to 521i of this title or reimbursement by any person for the value of improvements to rights-of-way otherwise required by this section.

(Pub. L. 97-465, § 4, Jan. 12, 1983, 96 Stat. 2536.)

.....

§ 521g. Road rights-of-way subject to State or local law

Conveyance of any road rights-of-way under sections 521c to 521i of this title shall not be construed as permitting any designation, maintenance, or use of such rights-of-way for road or other purposes except to the extent permitted by State or local law and under conditions imposed by such law.

(Pub. L. 97-465, § 5, Jan. 12, 1983, 96 Stat. 2536.)

.....

§ 521h. Regulations; contents

The Secretary shall issue regulations to carry out the provisions of sections 521c to 521i of this title, including specification of—

- (1) criteria which shall be used in making the determination as to what constitutes the public interest;
- (2) the definition of and the procedure for determining “approximately equal value”; and
- (3) factors relating to location or size which shall be considered in connection with determining the lands to be sold, exchanged, or interchanged under clause (1) of section 521e of this title.

(Pub. L. 97-465, § 6, Jan. 12, 1983, 96 Stat. 2536.)

.....

§ 521i. Unaffected lands

Nothing in sections 521c to 521i of this title shall authorize conveyance of Federal lands within the National Wilderness Preservation System, National Wild and Scenic Rivers System, National Trails System, or National Monuments. Nothing in sections 521c to 521i of this title shall authorize sale of Federal lands, within National Recreation Areas.

(Pub. L. 97-465, § 7, Jan. 12, 1983, 96 Stat. 2536.)

.....

§ 522. Omitted

Codification

Section, acts Feb. 15, 1901, ch. 372, 31 Stat. 790; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628, insofar as it relates to rights-of-way through public lands, forests, and reservations, and the Yosemite, Sequoia, and General Grant National Parks is set out as section 79 of this title and section 959 of Title 43, Public Lands, and insofar as it related to rights-of-way through national forests was set out as this section. Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, repealed this section insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

.....

§ 523. Rights-of-way through national forests for power and communications facilities

The head of the department having jurisdiction over the lands is authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the national forests of the United States for electrical poles and lines for the transmission and distribution of

electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of two hundred feet on each side of the center line of such lines and poles and not to exceed four hundred feet by four hundred feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: Provided, That such right-of-way shall be allowed within or through any national forest only upon the approval of the chief officer of the department under whose supervision or control such national forest falls, and upon a finding by him that the same is not incompatible with the public interest: Provided further, That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for nonuse for a period of two years or for abandonment.

Any citizen, association, or corporation of the United States to whom there has been issued a permit prior to March 4, 1911, for any of the purposes specified herein under any law existing at that date, may obtain the benefit of this section upon the same terms and conditions as shall be required of citizens, associations, or corporations making application under the provisions of this section subsequent to said date.

(Mar. 4, 1911, ch. 238, 36 Stat. 1253; May 27, 1952, ch. 338, 66 Stat. 95.)

Repeals

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

Codification

Section, insofar as it relates to rights-of-way in national parks, military, and other reservations, is set out as sections 5 and 420 of this title, and insofar as it relates to rights-of-way on public lands generally, and Indian reservations, is set out as section 961 of Title 43, Public Lands.

Amendments

1952—Act May 27, 1952, inserted reference to rights-of-way for radio, television, and other forms of communication, and increased from 40 feet to 400 feet the maximum width of rights-of-way for lines and poles.

Savings Provision

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

.....

§ 524. Rights-of-way for dams, reservoirs, or water plants for municipal, mining, and milling purposes

Rights-of-way for the construction and maintenance of dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals, within and across the national forests of the United States, are granted to citizens and corporations of the United States for municipal or mining purposes, and for the purposes of the milling and reduction of ores, during the period of their beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

(Feb. 1, 1905, ch. 288, § 4, 33 Stat. 628.)

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Repeals

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

Codification

“National forests” and “forests” substituted in text for “forest reserves” and “reserves”, respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Savings Provision

Repeal by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

.....

§ 525. Rights-of-way for wagon roads or railroads

In the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any national forest when in his judgment the public interests will not be injuriously affected thereby.

(Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1233.)

Repeals

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

Codification

As originally enacted, this section contained following the word “forest” the words “or reservoir site”. See sections 665 and 958 of Title 43, Public Lands, which represent the phrase of the section here omitted.

“National forest” substituted in text for “forest reserve” on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Savings Provision

Repeal by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

.....

§ 526. Establishment and protection of water rights

There are authorized to be appropriated for expenditure by the Forest Service such sums as may be necessary for the investigation and establishment of water rights, including the purchase thereof or of lands or interests in lands or rights-of-way for use and protection of water rights necessary or beneficial in connection with the administration and public use of the national forests.

(Sept. 21, 1944, ch. 412, title II, § 213, 58 Stat. 737.)

Codification

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Interim Moratorium on Bypass Flows

Pub. L. 104–127, title III, § 389, Apr. 4, 1996, 110 Stat. 1021, as amended by Pub. L. 104–180, title VII, § 736, Aug. 6, 1996, 110 Stat. 1607, provided that:

“(a) Moratorium.—There shall be a 20-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

“(b) Limitations.—Subsection (a) shall not affect—

“(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

“(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

“(c) Rules of Construction.—

“(1) Existing non-federal water rights.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

“(2) Renewal or reissuance of expiring land use authorization for decreed water rights.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

“(d) Study of Water Rights Across Federal Lands.—

“(1) Establishment.—Not later than 60 days after the date of enactment of this Act [Apr. 4, 1996], there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

“(2) Membership.—The Task Force shall be composed of 7 members appointed as follows:

“(A) 1 member shall be appointed by the Secretary of Agriculture.

“(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

“(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

“(3) Subjects to be studied.—The Task Force shall study and make recommendations on—

“(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

“(B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;

“(C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;

“(D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and

“(E) measures that would be useful in avoiding or resolving conflicts between the Forest Service’s responsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

“(4) Final report.—As soon as practicable, but not later than 14 months, after the date of enactment of this Act [Apr. 4, 1996], the Task Force shall provide the final report of the Task Force to—

“(A) the Secretary of Agriculture;

“(B) the Speaker of the House of Representatives;

“(C) the President pro tempore of the Senate;

“(D) the Chairman of the Committee on Agriculture of the House of Representatives;

“(E) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

“(F) the Chairman of the Committee on Resources [now Committee on Natural Resources] of the House of Representatives; and

TITLE 16 - Section 527 - Use of Forest Service funds for administration of certain lands

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“(G) the Chairman of the Committee on Energy and Natural Resources of the Senate.

“(5) Authorization of funds.—The Secretary of Agriculture shall use funds made available for salaries and administrative expenses of the Department of Agriculture to carry out this subsection.

“(e) Extension for Delay.—There shall be a day-for-day extension to the 20-month moratorium required by subsection (a) and a day-for-day extension to the report required by subsection (d)(4)—

“(1) for every day of delay in implementing or establishing the Water Rights Task Force caused by a failure to nominate Task Force members by the Administration or by the Congress; or

“(2) for every day of delay caused by a failure by the Secretary of Agriculture to identify adequate resources as determined by the Secretary of Agriculture to carry out the purposes of the Task Force.”

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§ 527. Use of Forest Service funds for administration of certain lands

The Forest Service may expend funds available for national forest protection and management for the administration of lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted under the Act of March 1, 1911, and the Act of June 7, 1924, and lands transferred to the Forest Service for administration.

(Sept. 21, 1944, ch. 412, title II, § 211, 58 Stat. 737.)

References in Text

Act of March 1, 1911, referred to in text, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Act of June 7, 1924, referred to in text, is act June 7, 1924, ch. 348, 43 Stat. 653, which is classified to sections 471, 499, 505, 515, 564, 565, 566, 567, 568, 569, and 570 of this title. For complete classification of this Act to the Code, see Tables.

Codification

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

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§ 528. Development and administration of renewable surface resources for multiple use and sustained yield of products and services; Congressional declaration of policy and purpose

It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of sections 528 to 531 of this title are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in section 475 of this title. Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on the national forests. Nothing herein shall be construed so as to affect the use or administration of the mineral resources of national forest lands or to affect the use or administration of Federal lands not within national forests.

(Pub. L. 86–517, § 1, June 12, 1960, 74 Stat. 215.)

Short Title

Section 5 of Pub. L. 86–517, as added Pub. L. 94–588, § 19, Oct. 22, 1976, 90 Stat. 2962, provided that: “This Act [enacting this section and sections 529 to 531 of this title] may be cited as the ‘Multiple-Use Sustained-Yield Act of 1960.’”

Pilot Program of Charges and Fees for Harvest of Forest Botanical Products

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 339], Nov. 29, 1999, 113 Stat. 1535, 1501A–199, as amended by Pub. L. 108–108, title III, § 335, Nov. 10, 2003, 117 Stat. 1312; Pub. L. 111–88, div. A, title IV, § 420, Oct. 30, 2009, 123 Stat. 2960, provided that:

“(a) Definition of Forest Botanical Product.—For purposes of this section, the term ‘forest botanical product’ means any naturally occurring mushrooms, fungi, flowers, seeds, roots, bark, leaves, and other vegetation (or portion thereof) that grow on National Forest System lands. The term does not include trees, except as provided in regulations issued under this section by the Secretary of Agriculture.

“(b) Recovery of Fair Market Value for Products.—The Secretary of Agriculture shall develop and implement a pilot program to charge and collect fees under subsection (c) for forest botanical products harvested on National Forest System lands. The Secretary shall establish appraisal methods and bidding procedures to determine the fair market value of forest botanical products harvested under the pilot program.

“(c) Fees.—

“(1) Imposition and collection.—Under the pilot program, the Secretary of Agriculture shall charge and collect from a person who harvests forest botanical products on National Forest System lands a fee in an amount established by the Secretary to recover at least a portion of the fair market value of the harvested forest botanical products and a portion of the costs incurred by the Department of Agriculture associated with granting, modifying, or monitoring the authorization for harvest of the forest botanical products, including the costs of any environmental or other analysis.

“(2) Security.—The Secretary may require a person assessed a fee under this subsection to provide security to ensure that the Secretary receives the fees imposed under this subsection from the person.

“(d) Sustainable Harvest Levels for Forest Botanical Products.—The Secretary of Agriculture shall conduct appropriate analyses to determine whether and how the harvest of forest botanical products on National Forest System lands can be conducted on a sustainable basis. The Secretary may not permit under the pilot program the harvest of forest botanical products at levels in excess of sustainable harvest levels, as defined pursuant to the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.). The Secretary shall establish procedures and timeframes to monitor and revise the harvest levels established for forest botanical products.

“(e) Waiver Authority.—

“(1) Personal use.—The Secretary of Agriculture shall establish a personal use harvest level for each forest botanical product, and the harvest of a forest botanical product below that level by a person for personal use shall not be subject to a fee under subsection (c).

“(2) Other exceptions.—The Secretary may also waive the application of subsection (b) or (c) pursuant to such regulations as the Secretary may prescribe.

“(f) Deposit and Use of Funds.—

“(1) Deposit.—Funds collected under the pilot program in accordance with subsection (c) shall be deposited into a special account in the Treasury of the United States.

“(2) Funds available.—Funds deposited into the special account in accordance with paragraph (1) shall be available for expenditure by the Secretary of Agriculture under paragraph (3) without further appropriation, and shall remain available for expenditure until the date specified in subsection (h)(2).

“(3) Authorized uses.—The funds made available under paragraph (2) shall be expended at units of the National Forest System in proportion to the fees collected at that unit under subsection (c) to pay for the costs of conducting inventories of forest botanical products, determining sustainable levels of harvest, monitoring and assessing the impacts of harvest levels and methods, conducting restoration activities, including any necessary vegetation, and covering costs of the Department of Agriculture described in subsection (c)(1).

“(4) Treatment of fees.—Funds collected under subsection (c) shall not be taken into account for the purposes of the following laws:

“(A) The sixth paragraph under the heading ‘forest service’ in the Act of May 23, 1908 (16 U.S.C. 500) and section 13 of the Act of March 1, 1911 (commonly known as the Weeks Act; 16 U.S.C. 500).

“(B) The fourteenth paragraph under the heading ‘forest service’ in the Act of March 4, 1913 (16 U.S.C. 501).

“(C) Section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012).

“(D) The Act of August 8 [28], 1937, and the Act of May 24, 1939 (43 U.S.C. 1181a et seq.).

“(E) Section 6 of the Act of June 14, 1926 (commonly known as the Recreation and Public Purposes Act; 43 U.S.C. 869–4).

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“(F) Chapter 69 of title 31, United States Code.

“(G) Section 401 of the Act of June 15, 1935 (16 U.S.C. 715s).

“(H) Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a).

“(I) Any other provision of law relating to revenue allocation.

“(g) Reporting Requirements.—As soon as practicable after the end of each fiscal year in which the Secretary of Agriculture collects fees under subsection (c) or expends funds from the special account under subsection (f), the Secretary shall submit to the Congress a report summarizing the activities of the Secretary under the pilot program, including the funds generated under subsection (c), the expenses incurred to carry out the pilot program, and the expenditures made from the special account during that fiscal year.

“(h) Duration of Pilot Program.—

“(1) Collection of fees.—The Secretary of Agriculture may collect fees under the authority of subsection (c) until September 30, 2014.

“(2) Use of special account.—The Secretary may make expenditures from the special account under subsection (f) until September 30 of the fiscal year following the last fiscal year specified in paragraph (1). After that date, amounts remaining in the special account shall be transferred to the general fund of the Treasury.”

[Pub. L. 108–108, § 335(3), which directed amendment of section 1000 (a)(3) [title III, § 339(d)(1)] of Pub. L. 106–113, set out above, was executed to section 1000 (a)(3) [title III, § 339(e)(1)] of Pub. L. 106–113 to reflect the probable intent of Congress.]

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§ 529. Authorization of development and administration consideration to relative values of resources; areas of wilderness

The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of sections 528 to 531 of this title.

(Pub. L. 86–517, § 2, June 12, 1960, 74 Stat. 215.)

Transfer of Functions

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with provisions of sections 528 to 531 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203 (a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d (f) of Title 15.

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§ 530. Cooperation for purposes of development and administration with State and local governmental agencies and others

In the effectuation of sections 528 to 531 of this title the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests.

(Pub. L. 86–517, § 3, June 12, 1960, 74 Stat. 215.)

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Transfer of Functions

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with the provisions of sections 528 to 531 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203 (a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d (f) of Title 15.

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§ 531. Definitions

As used in sections 528 to 531 of this title the following terms shall have the following meanings:

- (a) "Multiple use" means: The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.
- (b) "Sustained yield of the several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land.

(Pub. L. 86-517, § 4, June 12, 1960, 74 Stat. 215.)

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§ 532. Roads and trails system; Congressional findings and declaration of policy

The Congress hereby finds and declares that the construction and maintenance of an adequate system of roads and trails within and near the national forests and other lands administered by the Forest Service is essential if increasing demands for timber, recreation, and other uses of such lands are to be met; that the existence of such a system would have the effect, among other things, of increasing the value of timber and other resources tributary to such roads; and that such a system is essential to enable the Secretary of Agriculture (hereinafter called the Secretary) to provide for intensive use, protection, development, and management of these lands under principles of multiple use and sustained yield of products and services.

(Pub. L. 88-657, § 1, Oct. 13, 1964, 78 Stat. 1089.)

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§ 533. Grant of easements for road rights-of-way; authority of Secretary of Agriculture; regulations

The Secretary is authorized, under such regulations as he may prescribe, subject to the provisions of sections 532 to 538 of this title, to grant permanent or temporary easements for specified periods or otherwise for road rights-of-way

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- (1) over national forest lands and other lands administered by the Forest Service, and
- (2) over any other related lands with respect to which the Department of Agriculture has rights under the terms of the grant to it.

(Pub. L. 88-657, § 2, Oct. 13, 1964, 78 Stat. 1089.)

Transfer of Functions

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with construction and utilization of national forest roads under sections 532 to 538 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203 (a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d (f) of Title 15.

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§ 534. Termination and cancellation of easements; notice; hearing

An easement granted under sections 532 to 538 of this title may be terminated by consent of the owner of the easement, by condemnation, or after a five-year period of nonuse the Secretary may, if he finds the owner has abandoned the easement, make a determination to cancel it. Before the Secretary may cancel an easement for nonuse the owner of such easement must be notified of the determination to cancel and be given, upon his request made within sixty days after receipt of the notice, a hearing in accordance with such rules and regulations as may be issued by the Secretary.

(Pub. L. 88-657, § 3, Oct. 13, 1964, 78 Stat. 1089.)

Transfer of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under sections 532 to 538 of this title to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 533 of this title.

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§ 535. Forest development roads; acquisition, construction, and maintenance; maximum economy; methods of financing; cost arrangements for construction standards; transfer of unused effective purchaser credit for road construction

The Secretary is authorized to provide for the acquisition, construction, and maintenance of forest development roads within and near the national forests and other lands administered by the Forest Service in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished

- (1) by the Secretary utilizing appropriated funds,
- (2) by requirements on purchasers of national forest timber and other products, including provisions for amortization of road costs in contracts,
- (3) by cooperative financing with other public agencies and with private agencies or persons, or

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(4) by a combination of these methods: Provided, That where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of the national forest timber and other products shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate. The Secretary is authorized, under such rules and regulations as he shall prescribe, to permit the transfer of unused effective purchaser credit for road construction earned after December 16, 1975, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.

(Pub. L. 88–657, § 4, Oct. 13, 1964, 78 Stat. 1089; Pub. L. 94–154, Dec. 16, 1975, 89 Stat. 823.)

Amendments

1975—Pub. L. 94–154 authorized the Secretary to permit the transfer of unused effective purchaser credit for road construction earned after Dec. 16, 1975, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.

Transfer of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under sections 532 to 538 of this title to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 533 of this title.

Financing of Forest Development Roads

Financing of forest development roads authorized by cl. (2) of this section deemed “budget authority” and “budget outlays” as defined in section 621 (a) of Title 2, The Congress, and effective for purpose specified in section 651 (a) of Title 2, see section 1608 of this title.

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§ 535a. Forest development roads: prohibition on credits; inclusion of construction costs in notice of sale; special election by small business concerns; construction standards; authorization of harvesting; treatment of road value

(a) Prohibition on timber purchaser road credits

In financing any forest development road pursuant to section 535 of this title, the Secretary of Agriculture may not provide effective credit for road construction to any purchaser of national forest timber or other forest products.

(b) Construction of roads by timber purchasers

(1) Whenever the Secretary of Agriculture makes a determination that a forest development road referred to in subsection (a) of this section shall be constructed or paid for, in whole or in part, by a purchaser of national forest timber or other forest products, the Secretary shall include notice of the determination in the notice of sale of the timber or other forest products. The notice of sale shall contain, or announce the availability of, sufficient information related to the road described in the notice to permit a prospective bidder on the sale to calculate the likely cost that would be incurred by the bidder to construct or finance the construction of the road so that the bidder may reflect such cost in the bid.

(2) If there is an increase or decrease in the cost of roads constructed by the timber purchaser, caused by variations in quantities, changes or modifications subsequent to the sale of timber made in accordance with applicable timber sale contract provisions, then an adjustment to the price paid for timber harvested by the purchaser shall be made. The adjustment shall be applied by the Secretary as soon as practicable after any such design change is implemented.

(c) Special election by small business concerns

(1) A notice of sale referred to in subsection (b) of this section containing specified road construction of \$50,000 or more, shall give a purchaser of national forest timber or other forest products that qualifies as a “small business concern” under the Small Business Act (15 U.S.C. 631 et seq.), and regulations issued thereunder, the option to elect that the Secretary of Agriculture build the roads described in the notice. The Secretary shall provide the small business concern with an estimate of the cost that would be incurred by the Secretary to construct the roads on behalf of the small business concern. The notice of sale shall also include the date on which the roads described in the notice will be completed by the Secretary if the election is made.

(2) If the election referred to in paragraph (1) is made, the purchaser of the national forest timber or other forest products shall pay to the Secretary of Agriculture, in addition to the price paid for the timber or other forest products, an amount equal to the estimated cost of the roads which otherwise would be paid by the purchaser as provided in the notice of sale. Pending receipt of such amount, the Secretary may use receipts from the sale of national forest timber or other forest products and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to accomplish the requested road construction.

(d) Authorization of harvesting

In each sale of national forest timber or other forest products referred to in this section, the Secretary of Agriculture is encouraged to authorize harvest of the timber or other forest products in a unit included in the sale as soon as road work for that unit is completed and the road work is approved by the Secretary.

(e) Construction standard

For any forest development road that is to be constructed or paid for by a purchaser of national forest timber or other forest products, the Secretary of Agriculture may not require the purchaser to design, construct, or maintain the road (or pay for the design, construction, or maintenance of the road) to a standard higher than the standard, consistent with applicable environmental laws and regulations, that is sufficient for the harvesting and removal of the timber or other forest products, unless the Secretary bears that part of the cost necessary to meet the higher standard.

(f) Treatment of road value

For any forest development road that is constructed or paid for by a purchaser of national forest timber or other forest products, the estimated cost of the road construction, including subsequent design changes, shall be considered to be money received for purposes of the payments required to be made under section 500 of this title. To the extent that the appraised value of road construction determined under this subsection reflects funds contributed by the Secretary of Agriculture to build the road to a higher standard pursuant to subsection (e) of this section, the Secretary shall modify the appraisal of the road construction to exclude the effect of the Federal funds.

(g) Effective date

(1) This section and the requirements of this section shall take effect (and apply thereafter) upon the earlier of—

(A) April 1, 1999; or

(B) the date that is the later of—

(i) the effective date of regulations issued by the Secretary of Agriculture to implement this section; and

(ii) the date on which new timber sale contract provisions designed to implement this section, that have been published for public comment, are approved by the Secretary.

(2) Notwithstanding paragraph (1), any sale of national forest timber or other forest products for which notice of sale is provided before the effective date of this section, and any effective purchaser road credit earned pursuant to a contract resulting from such a notice of sale or otherwise earned before that effective date shall remain in effect, and shall continue to be subject to section 535

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of this title and section 472a (i) of this title, and rules issued thereunder, as in effect on the day before October 21, 1998.

(Pub. L. 105–277, div. A, § 101(e) [title III, § 329], Oct. 21, 1998, 112 Stat. 2681–231, 2681–292.)

References in Text

The Small Business Act, referred to in subsec. (c)(1), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

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§ 536. Recording of instruments; furnishing of instruments affecting public domain lands to Secretary of the Interior

Copies of all instruments affecting permanent interests in land executed pursuant to sections 532 to 538 of this title shall be recorded in each county where the lands are located. Copies of all instruments affecting interests in lands reserved from the public domain shall be furnished to the Secretary of the Interior.

(Pub. L. 88–657, § 5, Oct. 13, 1964, 78 Stat. 1089.)

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§ 537. Maintenance and reconstruction by road users; funds for maintenance and reconstruction; availability of deposits until expended, transfer of funds, and refunds

The Secretary may require the user or users of a road under the control of the Forest Service, including purchasers of Government timber and other products, to maintain such roads in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a road to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purpose for which deposited: Provided, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: And provided further, That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

(Pub. L. 88–657, § 6, Oct. 13, 1964, 78 Stat. 1090.)

Transfer of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under sections 532 to 538 of this title to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 533 of this title.

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§ 538. User fees fund for delayed payments to grantors

Whenever the agreement under which the United States has obtained for the use of, or in connection with, the national forests and other lands administered by the Forest Service a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government’s grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

(Pub. L. 88–657, § 7, Oct. 13, 1964, 78 Stat. 1090.)

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§ 539. Additions to existing national forests; administration

(a) The following units of the National Forest System are hereby expanded:

- (1) Chugach National Forest by the addition of four areas, Nellie Juan, College Fjord, Copper/Rude River, and Controller Bay, containing approximately one million nine hundred thousand acres of public land, as generally depicted on the map entitled “Chugach National Forest additions—proposed”, and dated October 1978; and
- (2) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres of public lands, as generally depicted on the map entitled “Tongass National Forest additions—proposed”, and dated October 1978.

(b) Subject to valid existing rights, lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: Provided, That the conservation of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 1978: Provided, That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law. Multiple use activities shall be permitted in a manner consistent with the conservation of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary.

(Pub. L. 96–487, title V, § 501, Dec. 2, 1980, 94 Stat. 2398.)

References in Text

This Act, referred to in subsec. (b), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Chugach National Forest Boundary Change

Pub. L. 102–415, § 6, Oct. 14, 1992, 106 Stat. 2113, provided that:

“(a) Boundary Adjustment.—The boundary of the Chugach National Forest, Alaska, is modified to include the approximately 9,300 acres as generally depicted on the map entitled ‘Official Map, Boundary Modification, Chugach National Forest’ and dated September 1988. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

“(b) Administration.—Subject to valid existing rights, all Federal lands brought within the boundary of the Chugach National Forest by subsection (a) are added to and shall be administered as part of the Chugach National Forest.

“(c) Terms and Conditions.—(1) Nothing in this Act [see Short Title of 1992 Amendment note set out under section 1601 of Title 43, Public Lands] shall be construed to affect the validity of, or the terms and conditions of, any

TITLE 16 - Section 539a - Mining and mineral leasing on certain national forest lands

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right-of-way, easement, lease, license, or permit on lands transferred by this section that is in existence on the date of enactment of this Act [Oct. 14, 1992].

“(2) Notwithstanding any other provision of law, the Secretary of the Interior shall delegate, as necessary, to the Secretary of Agriculture the authority to renew or reissue the authorizations described in paragraph (1). The change of administrative jurisdiction over these lands resulting from subsection (a) shall not constitute a ground for the denial of renewal or reissuance of the authorizations described in paragraph (1).

“(d) Land and Water Conservation Fund Act.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundary of the Chugach National Forest, as modified by this section, shall be treated as if it were the boundary of the Chugach National Forest as of January 1, 1965.”

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§ 539a. Mining and mineral leasing on certain national forest lands

Subject to valid existing rights, the minerals in public lands within the Copper River addition to the Chugach National Forest, are hereby withdrawn from location, entry, and patent under the United States mining laws. With respect to such areas, the Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from the lands in the manner prescribed by Reorganization Plan Numbered 3 of 1946 and section 520 of this title, and the removal of leasable minerals from such lands in accordance with the mineral leasing laws, if the Secretary finds that such disposition would not have significant adverse effects on the administration of the area. All receipts derived from disposal of nonleasable minerals under this section shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests.

(Pub. L. 96–487, title V, § 502, Dec. 2, 1980, 94 Stat. 2399.)

References in Text

The United States mining laws and the mineral leasing laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

Reorganization Plan Numbered 3 of 1946, referred to in text, is Reorg. Plan No. 3 of 1946, July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, which is set out in the Appendix to Title 5, Government Organization and Employees.

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§ 539b. Fisheries on national forest lands in Alaska

(a) Regulations for protection and maintenance of habitats

The Secretary of Agriculture shall, in consultation with the Secretaries of Commerce and the Interior, and with the State of Alaska, pursuant to his existing authority to manage surface resources, promulgate such reasonable regulations as he determines necessary after consideration of existing laws and regulations to maintain the habitats, to the maximum extent feasible, of anadromous fish and other foodfish, and to maintain the present and continued productivity of such habitat when such habitats are affected by mining activities on national forest lands in Alaska. The Secretary of Agriculture, in consultation with the State, shall assess the effects on the populations of such fish in determinations made pursuant to this subsection.

(b) Approved plan for mining operations; requirements; review; modification; suspension of activities

Because of the large scale of contemplated mining operations and the proximity of such operations to important fishery resources, with respect to mining operations in the Quartz Hill area of the Tongass National Forest, the regulations of the Secretary shall, pursuant to this subsection, include a requirement that all mining operations involving significant surface disturbance shall be in accordance with an approved plan of operations. Before approving any proposed plan or distinct stages of such plan of operations for any such claims when any fishery habitat or fishery value may be affected, the Secretary

shall, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, determine—

(1) that such plan or stages of such plan are based upon and shall include studies or information which he determines are adequate for—

(A) evaluating the water quality and water quantity, fishery habitat, and other fishery values of the affected area; and

(B) evaluating to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under such plan of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components;

(2) that such plan adequately identifies the risks the operations under such plan or such stages might pose to and the benefits the operations under such plan might provide to—

(A) the natural stability and the present and continued productivity of anadromous fish and other foodfish;

(B) fishery habitat, including but not limited to water quality and water quantity; and

(C) other fishery values;

(3) that such plan includes provisions which he determines are adequate for the purposes of—

(A) preventing significant adverse environmental impacts to the fishery habitat (including but not limited to water quality and water quantity) or other fishery values; and

(B) maintaining present and continued productivity of the habitat of anadromous fish and other foodfish which might be affected by the mining and other activities proposed to be conducted in accordance with such plan or such stages of the plan of operations;

(4) (A) the Secretary shall ensure, to the maximum extent feasible, that the cumulative effects of activities carried out under the operating plan will not interfere with the ability to collect baseline information needed by the Secretary to evaluate the effects of various stages of the operating plan on the fishery habitat and productivity of such habitats;

(B) the Secretary shall review such plan and mining activities on at least an annual basis. With respect to any mining or associated activities, the Secretary, if he determines upon notice and hearing, that the activities are harmful to the continued productivity of anadromous fish, or other foodfish populations or fishery habitat, shall require a modification of the plan to eliminate or mitigate, if necessary, the harmful effects of such activities; and

(5) upon a finding by the Secretary that a mining activity conducted as a part of a mining operation exists which constitutes a threat of irreparable harm to anadromous fish, or other foodfish populations or their habitat, and that immediate correction is required to prevent such harm, he may require such activity to be suspended for not to exceed seven days, provided the activity may be resumed at the end of said seven-day period unless otherwise required by a United States district court.

(c) Authority of State of Alaska to manage fish and wildlife

Nothing in this section shall enlarge or diminish the responsibility and authority of the State of Alaska to manage fish and wildlife or to exercise its other responsibilities under applicable law.

(d) Authority of Secretary of Agriculture to manage national forests

Except as specifically provided in subsection (b)(5) of this section nothing in this section shall enlarge or diminish the responsibilities and authorities of the Secretary of Agriculture to manage the national forests.

(Pub. L. 96-487, title V, § 505, Dec. 2, 1980, 94 Stat. 2405.)

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§ 539c. Cooperative fisheries planning; report to Congress

(a) The Secretary of Agriculture is directed to implement a cooperative planning process for the enhancement of fisheries resources through fish hatchery and aquaculture facilities and activities in the Tongass National Forest. Participation in this process shall include but not be limited to the State of Alaska and appropriate nonprofit aquaculture corporations. The Secretary may contract with private, nonprofit associations for services in such planning.

(b) Each subsequent revision of National Forest management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.] and the National Forest Management Act of 1976 shall contain a report on the status of the planning process undertaken under this paragraph, including, but not limited to, a description of current hatchery and aquaculture projects, an analysis of the success of these projects, and a prioritized list of projects anticipated for the duration of the management plan. The report shall be submitted by the Secretary to the Congress with recommendations for any legislative action which the Secretary may deem necessary to implement the proposed hatchery and aquaculture projects.

(Pub. L. 96-487, title V, § 507, Dec. 2, 1980, 94 Stat. 2412.)

References in Text

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (b), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The National Forest Management Act of 1976, referred to in subsec. (b), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

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§ 539d. National forest timber utilization program

(a) Tongass National Forest timber supply; satisfaction of certain market demands

Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which

- (1) meets the annual market demand for timber from such forest and
- (2) meets the market demand from such forest for each planning cycle.

(b) Insured and guaranteed loan program for purchasers of national forests materials in Alaska; authorization of appropriations

(1) The Secretary is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

(2) To carry out the special loan program established by this section, there are hereby authorized beginning after the fiscal year 1980 to be appropriated \$5,000,000 from National Forest Fund receipts, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

(c) Study on increase of timber yields on national forest lands in Alaska; transmittal to Congress

Within three years after December 2, 1980, the Secretary shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

(d) Identification of lands not suited for timber production; consideration of economic factors unnecessary

All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604 (k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.

(e) Protection of riparian habitat; maintenance of buffer zones in Tongass National Forest; relocation of prior independent sale or released volume

In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than one hundred feet in width on each side of all Class I streams in the Tongass National Forest, and on those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation handbook¹ (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the terms "Class I streams" and "Class II streams" mean the same as they do in the Region 10 Aquatic Habitat Management Handbook (FSH 2609.24), June 1986.

(f) Timber supply from Tongass National Forest for purchasers qualifying as "small business concerns"

Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Management Act of 1976 (Public Law 94-588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall, in consultation with the Administrator of the Small Business Administration and to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest to those purchasers qualifying as "small business concerns" under the Small Business Act as amended (15 U.S.C. 631 et seq.).

Footnotes

¹ So in original. Probably should be capitalized.

(Pub. L. 96-487, title VII, § 705, Dec. 2, 1980, 94 Stat. 2420; Pub. L. 101-626, title I, §§ 101-103(a), 105 (b), Nov. 28, 1990, 104 Stat. 4426, 4427.)

References in Text

The National Forest Management Act of 1976, referred to in subsecs. (a) and (f), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. Section 6(k) of the Act (16 U.S.C. 1604 (k)), probably means section 6(k) of the Forest and Rangeland Renewable Resources Planning Act of 1974, which is classified to section 1604 (k) of this title, and which was added by section 6 of the Act. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

This Act, referred to in subsec. (f), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Small Business Act, referred to in subsec. (f), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

Amendments

1990—Subsec. (a). Pub. L. 101–626, § 101, added subsec. (a) and struck out former subsec. (a) which read as follows: “The Congress authorizes and directs that the Secretary of the Treasury shall make available to the Secretary of Agriculture the sum of at least \$40,000,000 annually or as much as the Secretary of Agriculture finds is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of four billion five hundred million foot board measure per decade. Such sums will be drawn from receipts from oil, gas, timber, coal, and other natural resources collected by the Secretary of Agriculture and the Secretary of the Interior notwithstanding any other law providing for the distribution of such receipts: Provided, That such funds shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and such funds shall not be subject to annual appropriation.”

Subsec. (d). Pub. L. 101–626, § 102, added subsec. (d) and struck out former subsec. (d) which read as follows: “The provisions of this section shall apply notwithstanding the provisions of section 6(k) of the National Forest Management Act of 1976 (90 Stat. 2949).”

Subsec. (e). Pub. L. 101–626, § 103(a), added subsec. (e).

Subsec. (f). Pub. L. 101–626, § 105(b), added subsec. (f).

Short Title of 1990 Amendment

Section 1(a) of Pub. L. 101–626 provided that: “This Act [amending this section and sections 472a and 539e of this title, enacting provisions listed in a table of Wilderness Areas set out under section 1132 of this title, and enacting provisions set out as notes under this section and section 539e of this title] may be cited as the ‘Tongass Timber Reform Act.’”

Study Containing Recommendations on Need To Standardize Riparian Management Practices in Tongass National Forest

Section 103(b) of Pub. L. 101–626 provided that: “No later than one year after the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture, in consultation with the State of Alaska, the National Marine Fisheries Service, and affected private land owners, shall prepare and transmit to the Congress a study containing recommendations on the need, if any, to standardize riparian management practices for Federal, State, and private lands within the Tongass National Forest.”

Application of Amendments by Pub. L. 101–626 to Certain Long-Term Timber Sale Contracts

Section 105(c) of Pub. L. 101–626 provided that: “The provisions of subsections (a) and (b) of this section [amending this section and section 472a of this title] shall not apply to the purchase of timber within the Tongass National Forest pursuant to the long-term timber sale contracts numbered 12–11–010–1545 and A10fs–1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.”

Applicability of Subsection (a) From October 1, 1987 Until September 30, 1989

Pub. L. 100–203, title V, § 5202, Dec. 22, 1987, 101 Stat. 1330–267, provided that from the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of subsec. (a) of this section was not effective, and that in lieu thereof, the following provision was to apply: “There is hereby authorized to be appropriated the sum of at least \$40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the

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timber supply from the Tongass National Forest to dependent industry at a rate of 4,500,000,000 foot board measure per decade.”

.....

§ 539e. Reports

(a) Timber supply and demand in southeastern Alaska

The Secretary is directed to monitor timber supply and demand in southeastern Alaska and report annually thereon to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(b) Status of Tongass National Forest in southeastern Alaska; contents

Within five years from December 2, 1980, and every two years thereafter the Secretary shall review and report to Congress on the status of the Tongass National Forest in southeastern Alaska. This report shall include, but not be limited to,

- (1) the timber harvest levels in the forest since December 2, 1980;
- (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska;
- (3) measures instituted by the Forest Service to protect fish and wildlife in the forest;
- (4) the status of the small business set aside program in the Tongass Forest,¹ and
- (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats.

(c) Cooperation and consultation

The study required by this section shall be conducted in cooperation and consultation with the State, affected Native Corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, the southeast Alaska commercial fishing industry, and the Alaska Land Use Council..²

Footnotes

¹ So in original. The comma probably should be a semicolon.

² So in original.

(Pub. L. 96–487, title VII, § 706, Dec. 2, 1980, 94 Stat. 2420; Pub. L. 101–626, title I, § 104, Nov. 28, 1990, 104 Stat. 4427; Pub. L. 103–437, § 6(d)(31), Nov. 2, 1994, 108 Stat. 4584.)

Amendments

1994—Subsec. (a). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

1990—Subsec. (a). Pub. L. 101–626, § 104(a), struck out at end “If, at any time after December 2, 1980, the Secretary finds that the available land base in the Tongass National Forest is inadequate to maintain the timber supply from the Tongass National Forest to dependent industry at the rate of four billion five hundred million foot board measure per decade, he shall include such information in his report.”

Subsec. (b). Pub. L. 101–626, § 104(a), added cl. (5).

Subsec. (c). Pub. L. 101–626, § 104(b), substituted “the southeast Alaska commercial fishing industry, and the Alaska Land Use Council.” for “and the Alaska Land Use Council”.

Termination of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to reporting to Congress, every two years, on the status of the Tongass National Forest, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 48 of House Document No. 103–7.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

Study Regarding Feasibility of Acquiring Previously Harvested Private Lands in Tongass National Forest

Section 501 of Pub. L. 101–626 directed the Secretary, no later than one year after Nov. 28, 1990, to complete a study regarding feasibility of acquiring private lands located within boundary of the Tongass National Forest, which have been significantly harvested and to transmit the study to specific committees of Congress.

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§ 539f. Nonprofit organization user of national forest lands

(a) Permits for organization camps; waiver of charges; performance of services; loss of entitlement

Notwithstanding any other provision of law, the Secretary of Agriculture is directed to waive annually without charge all or a portion of payment or rental fees required under terms of a permit for use of certain lands of the National Forest System as organization camps by local units of the Boy Scouts of America or such other nonprofit organization when such local units of the Boy Scouts of America or such nonprofit organization are willing to perform services, as the Secretary prescribes and determines will yield a valuable benefit to the public and to the program of the Secretary of such lands. If the Secretary determines that a local unit of the Boy Scouts of America or such other nonprofit organization has not fully performed such services, such organization shall not be entitled in the subsequent year to waiver under the provisions of this section.

(b) “Other nonprofit organization” defined

The term “other nonprofit organization” shall mean

- (1) a nonprofit organization holding an exemption under section 501 (c) of title 26; and
- (2) a nonprofit association or nonprofit corporation, which is not controlled or owned by profitmaking corporations or business enterprises, and which is engaged in public or semipublic activity to further public health, safety, or welfare.

(Pub. L. 98–478, § 3, Oct. 16, 1984, 98 Stat. 2216; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

Amendments

1986—Subsec. (b). Pub. L. 99–514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

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§ 539g. Kings River Special Management Area

(a) Establishment

In order to provide for public outdoor recreation use and enjoyment of certain areas within the Sierra National Forest and the Sequoia National Forest, to protect those areas’ natural, archaeological, and scenic resources, and to provide for appropriate fish and wildlife management of those areas, there is hereby established the Kings River Special Management Area (hereinafter in this Act referred to as the “special management area”). The special management area shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as “the Secretary”) through the Sierra National Forest.

(b) Area included

The special management area shall consist of the lands, waters, and interests therein within the area generally depicted on the map entitled “Boundary Map, Kings River Special Management Area”, dated April 1987. The map shall be on file and available for public inspection in the offices of the National Forest Service, Department of Agriculture. The Secretary of Agriculture may from time to time make minor revisions of the boundary of the special management area.

(c) Administration

The Secretary shall administer the special management area in accordance with this Act and with the provisions of law generally applicable to units of the National Forest System. In the case of any conflict between the provisions of such Acts, the provisions of this Act shall govern. In the administration of the special management area the Secretary may utilize such statutory authority as may be available to him for the conservation of wildlife and natural resources as he deems necessary to carry out the purposes of this Act. Nothing in this Act shall be construed to prohibit grazing within the special management area to the same extent, and in accordance with the same rules and regulations as applicable in the absence of this Act. The Secretary may permit the cutting of timber within the special management area only in those cases where in the judgment of the Secretary the cutting of such timber is required in order to control the attacks of fire, insects, or diseases or to otherwise conserve the scenery or the natural or historical objects in the area.

(d) Mining and mineral leasing

Subject to valid existing rights, lands within the special management area are withdrawn from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States and from operation of the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.].

(e) Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife management or public use and enjoyment. Except in emergencies, regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(f) Management plan

After consultation with the State of California, the Secretary shall publish a management plan for the special management area within three years after November 3, 1987. The plan shall provide for public outdoor recreation use and enjoyment of the special management area, protect the area's natural, archeological, and scenic resources, and provide for appropriate fish and wildlife management within the area. The plan shall contain provisions for management of vegetation within the area designed to enhance the wildlife carrying capacity of the area. The plan shall permit off-road vehicular use of off-road trails to the same extent and in the same locations as was permitted before November 3, 1987. The plan shall provide for the development of hiking trails in the special management area and shall include a trail from Garlic Creek to Little Tehipite Valley.

(g) Access to private lands

If any State or privately owned land or any valid mining claim or other valid occupancy is within the special management area, or if State or private subsurface rights underlie public lands within the special management area, the Secretary shall provide the State or private owner, claimant, or occupier and their successors in interest such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the site concerned. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of the special management area, taking into account the traditional and customary means of access used prior to November 3, 1987.

(h) Specific protections

In recognition of the dispute that exists over whether a dam project should be constructed in the segment of the Main Stem of the Kings River from the point at elevation 1,595 feet above mean sea level downstream to the point at elevation 990 feet above mean sea level, Congress declares its intention at this time not to designate that segment of the Kings River as a component of the Wild and Scenic Rivers System. Notwithstanding any other provision of law, no Federal lands may be used for the construction of any dam or diversion within the boundaries of the special management area without specific authority

of the Congress. In order to protect the natural, cultural, recreational, fishery, and wildlife values of the river segment referred to in this subsection, that segment shall be subject to the provisions of section 1278 (a) of this title, in the same manner as if it were designated. Nothing in this Act shall preclude the Kings River Conservation District from conducting studies as it may deem appropriate.

(Pub. L. 100–150, § 2, Nov. 3, 1987, 101 Stat. 881.)

References in Text

This Act, referred to in subsecs. (a), (c), and (h), is Pub. L. 100–150, Nov. 3, 1987, 101 Stat. 881, which enacted this section and amended section 1274 of this title. For complete classification of this Act to the Code, see Tables.

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (d), are classified generally to Title 30, Mineral Lands and Mining.

The Geothermal Steam Act of 1970, referred to in subsec. (d), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, as amended, which is classified principally to chapter 23 (§ 1001 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

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§ 539h. Greer Spring Special Management Area

(a) Objectives and establishments

In order to provide for public outdoor recreation use, including fishing and hunting, in a natural setting, and the enjoyment of certain areas within the Mark Twain National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate resource management of those areas, there is hereby established the Greer Spring Special Management Area (hereinafter referred to as “the special management area”). The Secretary shall manage the special management area in accordance with this Act, and with provisions of law generally applicable to units of the National Forest System to the extent consistent with this Act.

(b) Area included

The special management area shall consist of lands, waters, and interests therein within the area referred to on the map as “The Greer Spring Special Management Area”. The Secretary is authorized to make minor revisions to the boundary of the special management area.

(c) Timber harvesting

The Secretary shall permit the harvesting of timber within the special management area only in those cases where, in the judgment of the Secretary, the harvesting of timber is required in order to control insects or disease, for public safety, for salvage sales, or to accomplish the objectives of the special management area as described in subsection (a) of this section. To the extent practicable, timber harvesting shall be conducted only by the individual tree selection method.

(d) Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law.

(e) Mining and mineral leasing

Subject to valid, existing rights, lands within the special management areas are withdrawn from location, entry, and patent under the mining laws of the United States, and from the operation of the mineral and geothermal leasing laws of the United States.

(f) Vehicular access

The Secretary shall construct and maintain only those roads within the special management area and corridor which are indicated on the map: Provided, That the Secretary shall provide access to such roads, or to timber harvesting pursuant to subsection (c) of this section, in such a manner as to minimize environmental impact.

(Pub. L. 102–220, § 4, Dec. 11, 1991, 105 Stat. 1674.)

References in Text

This Act, referred to in subsec. (a), is Pub. L. 102–220, Dec. 11, 1991, 105 Stat. 1674, known as the Greer Spring Acquisition and Protection Act of 1991, which enacted this section and provisions set out below. For complete classification of this Act to the Code, see section 1 of Pub. L. 102–220, set out below, and Tables.

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (e), are classified generally to Title 30, Mineral Lands and Mining.

Geothermal leasing laws of the United States, referred to in subsec. (e), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

Greer Spring Acquisition and Protection

Sections 1 to 3 and 5 of Pub. L. 102–220 provided that:

“SECTION 1. SHORT TITLE.

“This Act [enacting this section] may be cited as the ‘Greer Spring Acquisition and Protection Act of 1991’.

“SEC. 2. ACQUISITION OF THE DENNIG TRACT.

“(a) The Secretary of Agriculture (hereinafter referred to as the ‘Secretary’) is hereby authorized and directed, subject to appropriations, to acquire all of the lands, waters, and interests therein, on a willing seller basis only, within the area generally depicted on a map entitled ‘Dennig Tract’, dated November 5, 1991 (hereinafter referred to as ‘the map’). The map, together with a legal description of such lands, shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture. The boundaries of the Mark Twain National Forest are hereby modified to include the area denoted ‘Dennig Property Outside of National Forest Boundary’ on the map. Such map and legal description shall have the same force and effect as if included in this Act, except that the correction of clerical and typographical errors in such map and legal description may be made by the Secretary.

“(b) Such modified boundaries shall be considered as the boundaries in existence as of January 1, 1965, for the purposes of section 7 of the Land and Water Conservation Fund Act (16 U.S.C. 4601–9).

“SEC. 3. ELEVEN POINT WILD AND SCENIC RIVER.

“The Secretary shall manage the lands, waters, and interests therein within the area referred to on the map as ‘The Eleven Point Wild and Scenic Corridor’ (hereinafter referred to as ‘the corridor’), pursuant to the provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). Lands acquired pursuant to section 2 of this Act within the corridor shall not be counted against the average one-hundred-acre-per-mile fee limitation of Section 6(a)(1) of the Wild and Scenic Rivers Act [16 U.S.C. 1277 (a)(1)], nor shall such lands outside the corridor be subject to the provisions of Section 6(a)(2) of the Wild and Scenic Rivers Act.

“SEC. 5. APPROPRIATIONS.

“There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.”

.....

§ 539i. Fossil Ridge Recreation Management Area

(a) Establishment

(1) In order to conserve, protect, and enhance the scenic, wildlife, recreational, and other natural resource values of the Fossil Ridge area, there is hereby established the Fossil Ridge Recreation Management Area (hereinafter referred to as the “recreation management area”).

(2) The recreation management area shall consist of certain lands in the Gunnison National Forest, Colorado, which comprise approximately 43,900 acres, as generally depicted as “Area A” on a map entitled “Fossil Ridge Wilderness Proposal”, dated January, 1993.

(b) Administration

The Secretary of Agriculture shall administer the recreation management area in accordance with this section and the laws and regulations generally applicable to the National Forest System.

(c) Withdrawal

TITLE 16 - Section 539j - Bowen Gulch Protection Area

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Subject to valid existing rights, all lands within the recreation management area 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, and from disposition under the mineral and geothermal leasing laws, including all amendments thereto.

(d) Timber harvesting

No timber harvesting shall be allowed within the recreation management area except to the extent that would be permitted in wilderness under section 1133 (d)(1) of this title for necessary control of fire, insects, and diseases, and for public safety.

(e) Livestock grazing

The designation of the recreation management area shall not be construed to prohibit, or change the administration of, the grazing of livestock within the recreation management area.

(f) Development

No developed campgrounds shall be constructed within the recreation management area. After August 13, 1993, no new roads or trails may be constructed within the recreation management area.

(g) Off-road recreation

Motorized travel shall be permitted within the recreation management area only on those established trails and routes existing as of July 1, 1991, on which such travel was permitted as of such date, except that other trails and routes may be used where necessary for administrative purposes or to respond to an emergency. No later than one year after August 13, 1993, the Secretary shall identify such routes and trails and shall prepare and make available to the public a map showing such routes and trails. Nothing in this subsection shall be construed as precluding the Secretary from closing any trail or route from use for purposes of resource protection or public safety.

(Pub. L. 103–77, § 5, Aug. 13, 1993, 107 Stat. 760.)

References in Text

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

The mining laws and the mineral leasing laws, referred to in subsec. (c), are classified generally to Title 30, Mineral Lands and Mining.

Geothermal leasing laws, referred to in subsec. (c), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

Short Title

Section 1(a) of Pub. L. 103–77 provided that: “This Act [enacting this section and section 539j of this title, enacting provisions set out as a note under section 539j of this title, and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the ‘Colorado Wilderness Act of 1993.’”

.....

§ 539j. Bowen Gulch Protection Area

(a) Establishment

- (1) There is hereby established in the Arapaho National Forest, Colorado, the Bowen Gulch Protection Area (hereinafter in this Act referred to as the “protection area”).
- (2) The protection area shall consist of certain lands in the Arapaho National Forest, Colorado, which comprise approximately 11,600 acres, as generally depicted as “Area A” on a map entitled “Bowen Gulch Additions to Never Summer Wilderness Proposal”, dated January, 1993.

(b) Administration

The Secretary shall administer the protection area in accordance with this section and the laws and regulations generally applicable to the National Forest System.

(c) Withdrawal

TITLE 16 - Section 539k - Kelly Butte Special Management Area

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Subject to valid existing rights, all lands within the protection area 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, and from disposition under the mineral and geothermal leasing laws, including all amendments thereto.

(d) Development

No developed campgrounds shall be constructed within the protection area. After August 13, 1993, no new roads or trails may be constructed within the protection area.

(e) Timber harvesting

No timber harvesting shall be allowed within the protection area except to the extent that would be permitted in wilderness under section 1133 (d)(1) of this title for necessary control of fire, insects, and diseases, and for public safety.

(f) Motorized travel

Motorized travel shall be permitted within the protection area only on those designated trails and routes existing as of July 1, 1991, and only during periods of adequate snow cover. At all other times, mechanized, non-motorized travel shall be permitted within the protection area.

(g) Management plan

During the revision of the Land and Resource Management Plan for the Arapaho National Forest, the Forest Service shall develop a management plan for the protection area, after providing for public comment.

(Pub. L. 103–77, § 6, Aug. 13, 1993, 107 Stat. 761.)

References in Text

This Act, referred to in subsec. (a), is Pub. L. 103–77, Aug. 13, 1993, 107 Stat. 756, known as the Colorado Wilderness Act of 1993. For complete classification of this Act to the Code, see Short Title note set out under section 539i of this title and Tables.

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

The mining laws and the mineral leasing laws, referred to in subsec. (c), are classified generally to Title 30, Mineral Lands and Mining.

Geothermal leasing laws, referred to in subsec. (c), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

Definitions

Section 1(b) of Pub. L. 103–77 provided that:

“(1) As used in this Act [see Short Title note set out under section 539i of this title] with reference to lands in the National Forest System, the term ‘the Secretary’ means the Secretary of Agriculture.

“(2) As used in this Act with respect to lands not in the National Forest System, the term ‘the Secretary’ means the Secretary of the Interior.”

.....

§ 539k. Kelly Butte Special Management Area

(a) Establishment

Upon conveyance to the United States of the Plum Creek offered lands in the Kelly Butte area, there is hereby established the Kelly Butte Special Management Area in the Mt. Baker-Snoqualmie National Forest, Washington, comprising approximately 5,642 acres, as generally depicted on a map entitled “Kelly Butte Special Management Area”, dated October 1998.

(b) Management

The Kelly Butte Special Management Area shall be managed by the Secretary in accordance with the laws, rules and regulations generally applicable to National Forest System lands, and subject to the following additional provisions:

- (1) the Area shall be managed with special emphasis on:
 - (A) preserving its natural character and protecting and enhancing water quality in the upper Green River watershed;
 - (B) permitting hunting and fishing;
 - (C) providing opportunities for primitive and semi-primitive recreation and scientific research and study;
 - (D) protecting and enhancing populations of fish, wildlife and native plant species; and
 - (E) allowing for traditional uses by native American peoples;
- (2) commercial timber harvest and road construction shall be prohibited;
- (3) the Area shall be closed to the use of motor vehicles, except as may be necessary for administrative purposes or in emergencies (including rescue operations) to protect public health and safety; and
- (4) the Area shall, subject to valid existing rights, be permanently withdrawn from all forms of entry and appropriation under the U.S. mining laws and mineral leasing laws, including the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.].

(c) No buffer zones

Congress does not intend that the designation of the Kelly Butte Special Management Area lead to the creation of protective perimeters or buffer zones around the Area. The fact that non-compatible activities or uses can be seen or heard from within the Kelly Butte Special Management Area shall not, of itself, preclude such activities or uses up to the boundary of the Area.

(Pub. L. 105–277, div. A, § 101(e) [title VI, § 611], Oct. 21, 1998, 112 Stat. 2681–231, 2681–334.)

References in Text

The U.S. mining laws and the mineral leasing laws, referred to in subsec. (b)(4), are classified generally to Title 30, Mineral Lands and Mining.

The Geothermal Steam Act of 1970, referred to in subsec. (b)(4), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, as amended, which is classified principally to chapter 23 (§ 1001 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

Interstate 90 Land Exchange

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 346(a), (e)–(g), (i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–204, 1501A–206, provided that:

“(a) This section [enacting and amending provisions set out as notes below] shall be referred to as the ‘Interstate 90 Land Exchange Amendment’.

“(e) Section 604 (b) [section 101 (e) [title VI, § 604(b)] of Pub. L. 105–277, set out below] is further amended by inserting the following before the colon: ‘except Township 19 North, Range 10 East, W.M., Section 4, Township 20 North, Range 10 East, W.M., Section 32, and Township 21 North, Range 14 East, W.M., W1/2W1/2 of Section 16, Township 12 North, Range 7 East, Sections 4 and 5, W.M., Township 13 North, Range 7 East, Sections 32 and 33, W.M., Township 8 North, Range 4 East, Section 17 and the S1/2 of 16, W.M., which shall be retained by the United States’. The Appraisal shall be adjusted by subtracting the values determined for Township 19 North, Range 10 East, W.M., Section 4, Township 20 North, Range 10 East, W.M., Section 32, Township 12 North, Range 7 East, Sections 4 and 5, W.M., Township 13 North, Range 7 East, Sections 32 and 33, W.M., Township 8 North, Range 4 East, Section 17 and the S1/2 of Section 16, W.M. during the Appraisal process in the context of the whole estate to be conveyed.

“(f) After adjustment of the Appraisal, the values of the offered and selected lands, including the offered lands held in escrow, shall be equalized as follows:

“(1) the appraised value of the offered lands, as such lands and appraised value have been adjusted hereby, minus the appraised value of the offered lands to be placed into escrow, shall be compared to the appraised value of the selected

TITLE 16 - Section 539k - Kelly Butte Special Management Area

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lands, as such lands and appraised value have been adjusted hereby, and the Secretary shall equalize such values by the payment of cash to Plum Creek at the time that deeds are exchanged, such cash to come from currently appropriated funds, or, if necessary, by reprogramming; and

“(2) the Secretary shall compensate Plum Creek for the lands placed into escrow, based upon the values determined for each such parcel during the Appraisal process in the context of the whole estate to be conveyed, through the following, including any combination thereof:

“(A) conveyance of any other lands under the jurisdiction of the Secretary acceptable to Plum Creek and the Secretary after compliance with all applicable Federal environmental and other laws; and

“(B) to the extent sufficient acceptable lands are not available pursuant to paragraph (A) of this subsection, cash payments as and to the extent funds become available through appropriations, private sources, or, if necessary, by reprogramming.

The Secretary shall promptly seek to identify lands acceptable to equalize values under paragraph (A) of this subsection and shall, not later than July 1, 2000, provide a report to the Congress outlining the results of such efforts.

“(g) As funds or lands are provided to Plum Creek by the Secretary, Plum Creek shall release to the United States deeds for lands and interests in lands held in escrow based on the values determined during the Appraisal process in the context of the whole estate to be conveyed. Deeds shall be released for lands and interests in lands in the following order: Township 21 North, Range 12 East, Section 15, W.M., Township 21 North, Range 12 East, Section 23, W.M., Township 21 North, Range 12 East, Section 25, W.M., Township 19 North, Range 13 East, Section 7, Township 19 North, Range 15 East, Section 31, Township 19 North, Range 14 East, Section 25, Township 22 North, Range 11 East, Section 3, W.M., and Township 22 North, Range 11 East, Section 19, W.M.

“(i) The deadline for the Report to Congress required by section 609(c) of the Interstate 90 Land Exchange Act of 1998 [section 101 (e) [title VI, § 609(c)] of Pub. L. 105–277, set out below] is hereby extended. Such Report is due to the Congress 18 months from the date of the enactment of this Interstate 90 Land Exchange Amendment [Nov. 29, 1999].”

Pub. L. 105–277, div. A, § 101(e) [title VI], Oct. 21, 1998, 112 Stat. 2681–231, 2681–326, as amended by Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 346(b)–(e), (h), (j)], Nov. 29, 1999, 113 Stat. 1535, 1501A–204 to 1501A–206, provided that:

“SEC. 601. SHORT TITLE.

“This Act [probably should be “this title” meaning Pub. L. 105–277, div. A, § 101(e) [title VI]] may be cited as the ‘Interstate 90 Land Exchange Act of 1998’.

“SEC. 602. FINDINGS AND PURPOSE.

“(a) Findings.—Congress finds that—

“(1) certain parcels of private land located in central and southwest Washington are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as parts of the Mt. Baker-Snoqualmie National Forest, Wenatchee National Forest, and Gifford Pinchot National Forest;

“(2) the private land surface estate and some subsurface is owned by the Plum Creek Timber Company, L.P. in an intermingled checkerboard pattern, with the United States or Plum Creek owning alternate square mile sections of land or fractions of square mile sections;

“(3) the checkerboard land ownership pattern in the area has frustrated sound and efficient land management on both private and National Forest lands by complicating fish and wildlife habitat management, watershed protection, recreation use, road construction and timber harvest, boundary administration, and protection and management of threatened and endangered species and old growth forest habitat;

“(4) acquisition by the United States of certain parcels of land that have been offered by Plum Creek for addition to the Mt. Baker-Snoqualmie National Forest and Wenatchee National Forest will serve important public objectives, including—

“(A) enhancement of public access, aesthetics and recreation opportunities within or near areas of very heavy public recreational use including—

“(i) the Alpine Lakes Wilderness Area;

“(ii) the Pacific Crest Trail;

“(iii) Snoqualmie Pass;

“(iv) Cle Elum Lake, Kachess Lake and Keechulus Lake; and

“(v) other popular recreation areas along the Interstate 90 corridor east of the Seattle-Tacoma Metropolitan Area;

TITLE 16 - Section 539k - Kelly Butte Special Management Area

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“(B) protection and enhancement of old growth forests and habitat for threatened, endangered and sensitive species, including a net gain of approximately 28,500 acres of habitat for the northern spotted owl;

“(C) consolidation of National Forest holdings for more efficient administration and to meet a broad array of ecosystem protection and other public land management goals, including net public gains of approximately 283 miles of stream ownership, 14 miles of the route of the Pacific Crest Trail, 20,000 acres of unroaded land, and 7,360 acres of riparian land; and

“(D) a significant reduction in administrative costs to the United States through—

“(i) consolidation of Federal land holdings for more efficient land management and planning;

“(ii) elimination of approximately 300 miles of boundary identification and posting;

“(iii) reduced right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land; and

“(iv) other administrative cost savings;

“(5) Plum Creek has selected certain parcels of National Forest System land that are logical for consolidation into Plum Creek ownership utilizing a land exchange because the parcels—

“(A) are intermingled with parcels owned by Plum Creek; and

“(B)(i) are generally located in less environmentally sensitive areas than the Plum Creek offered land; and

“(ii) have lower public recreation and other public values than the Plum Creek offered land;

“(6) time is of the essence in consummating a land exchange because delays may force Plum Creek to road or log the offered land and thereby diminish the public values for which the offered land is to be acquired; and

“(7) it is in the public interest to complete the land exchange at the earliest practicable date so that the offered land can be acquired and preserved by the United States for permanent public management, use, and enjoyment.

“(b) Purpose.—It is the purpose of this Act to further the public interest by authorizing, directing, facilitating, and expediting the consummation of the Interstate 90 land exchange so as to ensure that the offered land is expeditiously acquired for permanent public use and enjoyment.

“SEC. 603. DEFINITIONS.

“In this Act:

“(1) Offered land.—The term ‘offered land’ means all right, title and interest, including the surface and subsurface interests, in land described in section 604 (a) to be conveyed into the public ownership of the United States under this Act.

“(2) Plum creek.—The term ‘Plum Creek’ means Plum Creek Timber Company, L.P., a Delaware Limited Partnership, or its successors, heirs, or assigns.

“(3) Secretary.—The term ‘Secretary’ means the Secretary of Agriculture.

“(4) Selected land.—The term ‘selected land’ means all right, title and interest, including the surface and subsurface interests, unless Plum Creek agrees otherwise, in land described in section 604 (b) to be conveyed into the private ownership of Plum Creek under this Act.

“SEC. 604. LAND EXCHANGE.

“(a) Condition and Conveyance of Offered Land.—The exchange directed by this Act shall be consummated if Plum Creek conveys title acceptable to the Secretary in and to the lands described in subsection (d), the offered lands described in paragraphs (1) and (2), or, if necessary, the lands and interests in land as provided in subsection (c) except title to offered lands and interests in lands described as follows: Township 21 North, Range 12 East, Section 15, W.M., Township 21 North, Range 12 East, Section 23, W.M., Township 21 North, Range 12 East, Section 25, W.M., Township 19 North, Range 13 East, Section 7, W.M., Township 19 North, Range 15 East, Section 31, W.M., Township 19 North, Range 14 East, Section 25, W.M., Township 22 North, Range 11 East, Section 3, W.M., and Township 22 North, Range 11 East, Section 19, W.M. must be placed in escrow by Plum Creek, according to terms and conditions acceptable to the Secretary and Plum Creek, for a 3-year period beginning on the later of the date of the enactment of this Act [Oct. 21, 1998] or consummation of the exchange. During the period the lands are held in escrow, Plum Creek shall not undertake any activities on these lands, except for fire suppression and road maintenance, without the approval of the Secretary, which shall not be unreasonably withheld.

“(1) Certain land comprising approximately 8,808 acres and located within the exterior boundaries of the Mt. Baker-Snoqualmie National Forest, Washington, as generally depicted on a map entitled ‘Interstate 90 Land Exchange’, dated October 1998; and

TITLE 16 - Section 539k - Kelly Butte Special Management Area

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“(2) Certain land comprising approximately 53,576 acres and located within or adjacent to the exterior boundaries of the Wenatchee National Forest, Washington, as generally depicted on a map entitled ‘Interstate 90 Land Exchange’, dated October 1998 except the following parcels: Township 19 North, Range 15 East, Section 29, W.M., Township 18 North, Range 15 East, Section 3, W.M., Township 19 North, Range 14 East, Section 9, W.M., Township 21 North, Range 14 East, Section 7, W.M., Township 22 North, Range 12 East, Section 35, W.M., Township 22 North, Range 13 East, Section 3, W.M., Township 22 North, Range 13 East, Section 9, W.M., Township 22 North, Range 13 East, Section 11, W.M., Township 22 North, Range 13 East, Section 13, W.M., Township 22 North, Range 13 East, Section 15, W.M., Township 22 North, Range 13 East, Section 25, W.M., Township 22 North, Range 13 East, Section 33, W.M., Township 22 North, Range 13 East, Section 35, W.M., Township 22 North, Range 14 East, Section 7, W.M., Township 22 North, Range 14 East, Section 9, W.M., Township 22 North, Range 14 East, Section 11, W.M., Township 22 North, Range 14 East, Section 15, W.M., Township 22 North, Range 14 East, Section 17, W.M., Township 22 North, Range 14 East, Section 21, W.M., Township 22 North, Range 14 East, Section 31, W.M., Township 22 North, Range 14 East, Section 27, W.M. The appraisal approved by the Secretary of Agriculture on June 14, 1999 (the ‘Appraisal’) shall be adjusted by subtracting the values for the parcels described in the preceding sentence determined during the Appraisal process in the context of the whole estate to be conveyed.

“(b) Conveyance of Selected Land by the United States.—Upon receipt of acceptable title to the offered land, as provided in section 604 (a), and placement in escrow of acceptable title to Township 22 North, Range 11 East, Section 3, W.M., Township 22 North, Range 11 East, Section 19, W.M., Township 21 North, Range 12 East, Section 15, W.M., Township 21 North, Range 12 East, Section 23, W.M., Township 21 North, Range 12 East, Section 25, W.M., Township 19 North, Range 13 East, Section 7, W.M., Township 19 North, Range 15 East, Section 31, W.M., and Township 19 North, Range 14 East, Section 25, W.M., and lands and interests described in subsection (d), the Secretary shall simultaneously convey to Plum Creek all right, title and interest of the United States, subject to valid existing rights, in and to the following selected land except Township 19 North, Range 10 East, W.M., Section 4, Township 20 North, Range 10 East, W.M., Section 32, and Township 21 North, Range 14 East, W.M., W1/2W1/2 of Section 16, Township 12 North, Range 7 East, Sections 4 and 5, W.M., Township 13 North, Range 7 East, Sections 32 and 33, W.M., Township 8 North, Range 4 East, Section 17 and the S1/2 of 16, W.M., which shall be retained by the United States:

“(1) Certain land administered, as of the date of enactment of this Act [Oct. 21, 1998], by the Secretary of Agriculture as part of the Mt. Baker-Snoqualmie National Forest, Washington, and comprising approximately 5,697 acres, as generally depicted on a map entitled ‘Interstate 90 Land Exchange’, dated October 1998.

“(2) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Wenatchee National Forest, Washington, and comprising approximately 5,197 acres, as generally depicted on a map entitled ‘Interstate 90 Land Exchange’, dated October 1998.

“(3) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Gifford Pinchot National Forest, Washington, and comprising approximately 5,601 acres, as generally depicted on a map entitled ‘Interstate 90 Land Exchange’, dated October 1998.

“(c) Offered Land Title.—If Plum Creek conveys title acceptable to the Secretary to less than all rights and interests in the offered lands, but conveys title acceptable to the Secretary to all rights and interests that Plum Creek owns and acquires under previous agreements in the lands described in subsection (d), the offered lands, and lands on the east and west sides of Cle Elum Lake, comprising approximately 252 acres, described as Township 21 North, Range 14 East, Section 5, and Lost Lake lands comprising approximately 272 acres, described as Township 21 North, Range 11 East, W1/2 of Section 3, the Secretary shall convey to Plum Creek all rights and interest in the selected land after the values of the offered and selected land are equalized. The values of the offered and selected lands shall be equalized as provided in section 605 (c)–(e) without regard to the value of lands described in subsection (d) or the Cle Elum or Lost Lake lands.

“(d) Land Donation.—Plum Creek agrees that it will convey, in the form of a voluntary donation, title acceptable to the Secretary in and to lands and interests in lands comprising approximately 320 acres, described as Township 22 North, Range 11 East, S1/2 of Section 13, if Plum Creek conveys title to lands and interests pursuant to subsections (a) or (c). It is the intention of Congress that any portion of such donated land which the Secretary determines qualifies as wilderness be, upon the date of its acquisition by the United States, incorporated in and managed as part of the adjacent Alpine Lakes Wilderness (as designated by Public Law 94–357) in accordance with section 6(a) of the Wilderness Act (16 U.S.C. 1135).

“SEC. 605. EXCHANGE VALUATION, APPRAISALS AND EQUALIZATION.

“(a) Equal Value Exchange.—

“(1) In general.—The values of the offered and selected land—

“(A) shall be equal; or

“(B) if the values are not equal, shall be equalized as set forth in subsections (c)–(e).

TITLE 16 - Section 539k - Kelly Butte Special Management Area

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“(2) Appraisal assumption.—In order to ensure the equitable and uniform appraisal of both the offered and selected land directed for exchange by this Act, all appraisals shall determine the highest and best use of the offered and selected land in accordance with applicable provisions of the Washington State Forest Practices Act and rules and regulations thereunder, including alternative measures for protecting critical habitat pursuant to a habitat conservation plan as provided in Washington Administrative Code 222–16–080–(6).

“(3) Appraisals.—The values of the offered land and selected land shall be determined by appraisals utilizing nationally recognized appraisal standards, including applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions (1992), the Uniform Standards of Professional Appraisal Practice, and section 206(d) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716 (d)).

“(4) Approval by the Secretary.—The appraisals, if not already completed by the date of enactment of this Act [Oct. 21, 1998], shall be completed and submitted to the Secretary for approval not later than 180 days after the date of enactment of this Act: Provided, That all timber harvest cease no later than November 30, 1998, except for any cleanup, reforestation, or other post-harvest work which cannot be completed by November 30, 1998. A comprehensive summary of the appraisal consistent with 7 CFR Part 1.11 shall be made available for public inspection in the Office of the Supervisor, Wenatchee National Forest, not less than 30 days nor more than 45 days prior to the exchange of deeds.

“(b) Appraisal Period.—After the final appraised values of the offered and selected lands, or any portion of the land, have been approved by the Secretary or otherwise determined under section 206(d) of the Federal Land Policy and Management Act (43 U.S.C. 1716 (d)), the value shall not be reappraised or updated before consummation of the land exchange, except to account for any timber harvest that might occur after completion of the final appraisal, or for any adjustments under section 606 (g).

“(c) Equalization if Surplus of Offered Land.—

“(1) In general.—If the final appraised value of the offered land or lands and interest in lands conveyed by Plum Creek under section 604 (c), except for the Cle Elum and Lost Lake lands, exceeds the final appraised value of the selected land, Plum Creek shall delete offered land parcels from the exchange in the exact order each land Section (or offered portion thereof) is listed in paragraph (2) until the values are approximately equal.

“(2) Order of deletion.—Offered land deletions under paragraph (1) shall be made in the following order:

“(A) Township 22 North, Range 13 East, Section 31, Willamette Meridian;

“(B) Township 21 North, Range 11 East, Section 35;

“(C) Township 19 North, Range 11 East, Section 35;

“(D) Township 19 North, Range 12 East, Section 1;

“(E) Township 20 North, Range 11 East, Sections 1 and 13;

“(F) Township 19 North, Range 12 East, Section 15;

“(G) Township 20 North, Range 11 East, Section 11;

“(H) Township 21 North, Range 11 East, Section 27;

“(I) Township 19 North, Range 13 East, Sections 27 and 15;

“(J) Township 21 North, Range 11 East, Sections 21 and 25;

“(K) Township 19 North, Range 11 East, Section 23;

“(L) Township 19 North, Range 13 East, Sections 21, 9 and 35;

“(M) Township 20 North, Range 12 East, Sections 35 and 27;

“(N) Township 19 North, Range 12 East, Section 11;

“(O) Township 21 North, Range 11 East, Section 17;

“(P) Township 21 North, Range 11 East, Section 5;

“(Q) Township 18 North, Range 15 East, Section 3;

“(R) Township 19 North, Range 14 East, Section 25;

“(S) Township 19 North, Range 15 East, Sections 29 and 31; and

“(T) Township 19 North, Range 13 East, Section 7.

“(d) Equalization if Surplus of Selected Land.—

TITLE 16 - Section 539k - Kelly Butte Special Management Area

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscript.html>).

“(1) In general.—If the final appraised value of the selected land exceeds the final appraised value of the offered land or lands and interest in lands conveyed by Plum Creek under section 604 (c), except for the Cle Elum and Lost Lake lands, the Secretary shall delete selected land parcels from the exchange in the exact order each land Section (or selected portion thereof) is listed in paragraph (2) until the values are approximately equal.

“(2) Order of deletion.—Selected land deletions under paragraph 1 shall be made in the following listed order:

“(A) the portion of Township 20 North, Range 11 East, Section 30 lying east of the thread of Sawmill Creek;

“(B) the portion of Township 19 North, Range 11 East, Section 6 lying east of the thread of Sawmill Creek;

“(C) Township 20 North, Range 11 East, Section 32;

“(D) Township 21 North, Range 14 East, Sections 28, 22, 36, 26 and 16;

“(E) Township 18 North, Range 15 East, Sections 13, 12 and 2;

“(F) Township 18 North, Range 15 East, Section 1; and

“(G) Township 18 North, Range 15 East, Section 17, Willamette Meridian.

“(e) Once the values of the offered and selected lands are equalized to the maximum extent practicable under subsections (c) or (d), any cash equalization balance due the Secretary or Plum Creek shall be made through cash equalization payments under subsection 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (b)).

“(f) Use of Proceeds by the Secretary.—The amount of any cash equalization payment received by the Secretary under this section shall be retained by the Secretary and shall be used by the Secretary until fully expended to purchase land from willing sellers in the State of Washington for addition to the National Forest System.

“SEC. 606. MISCELLANEOUS PROVISIONS.

“(a) Status of Lands After Exchange.—

“(1) Land acquired by the secretary.—

“(A) In general.—Land acquired by the Secretary under this Act shall become part of the Mt. Baker-Snoqualmie, Gifford Pinchot or Wenatchee National Forests, as appropriate.

“(B) Modification of boundaries.—

“(1) If any land acquired by the Secretary lies outside the exterior boundaries of the national forests identified in subparagraph (A), the boundaries of the appropriate national forest are hereby modified to include such land.

“(2) Nothing in this section shall limit the authority of the Secretary to adjust the boundaries of such National Forests pursuant to section 11 of the Act of March 1, 1911 (commonly known as the ‘Weeks Act’) [16 U.S.C. 521].

“(3) For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9 [4601–9]) the boundaries of Mt. Baker-Snoqualmie, Wenatchee and Gifford Pinchot as modified by this Act shall be considered to be the boundaries of such forests as of January 1, 1965.

“(C) Management.—Land acquired by the Secretary under this Act shall have the status of lands acquired under the Act of March 1, 1911 [act Mar. 1, 1911, ch. 186, 36 Stat. 961, see Tables for classification] and shall be managed in accordance with the laws, rules, regulations and guidelines applicable to the National Forest System.

“(2) Land acquired by plum creek.—Land acquired by Plum Creek under this Act shall become private land for all purposes of law, unless the deed by which conveyance is made to Plum Creek contains a specific reservation.

“(b) Post-Exchange Access to Land.—

“(1) Finding.—Congress finds that Plum Creek and the Secretary should have adequate and timely post-exchange access to lands acquired pursuant to this Act over existing primary, secondary, or other national forest system roads as may be needed.

“(2) Intention.—It is the intention of Congress that Plum Creek have access to all lands it acquires under this Act, and when such access requires construction of new roads, it shall be granted in compliance with the National Environmental Policy Act [of 1969] [42 U.S.C. 4321 et seq.], the Endangered Species Act [of 1973] [16 U.S.C. 1531 et seq.], the National Historic Preservation Act [16 U.S.C. 470 et seq.], and other applicable laws, rules, and regulations.

“(3) Access within cost share agreement areas.—Within Cost Share Construction and Use Agreement Areas, Plum Creek and the Secretary will convey road access, at no cost, to the lands acquired by each party upon consummation of the exchange pursuant to this Act in accordance with the appropriate terms and procedures of said cost share construction and use agreements.

TITLE 16 - Section 539k - Kelly Butte Special Management Area

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(4) Access outside cost share agreement areas.—Outside of Cost Share Construction and Use Agreement Areas, the Secretary shall grant Plum Creek road access easements at no cost in a form set out in Forest Service Handbook 2709.12, 35. In the case of new road construction, they shall conform to the Secretary’s rules and regulations 36 CFR 251, subpart B, for the roads identified on the map entitled ‘Plum Creek Access Road Needs’, dated September 1998, including mitigation under existing law.

“(c) Access to Certain Lands Acquired by the United States.—Outside of Cost Share Construction and Use Agreement Areas, Plum Creek shall grant the Secretary road access easements at no cost on the locations identified by the Secretary in a format acceptable to the Secretary.

“(d) Timing.—The Secretary and Plum Creek shall make the adjustments directed in section 604 (a) and (b) and consummate the land exchange within 30 days of the enactment of the Interstate 90 Land Exchange Amendment [Nov. 29, 1999], unless the Secretary and Plum Creek mutually agree to extend the consummation date.

“(e) Withdrawal of Selected Land.—Effective upon the date of enactment of this Act [Oct. 21, 1998], all selected land identified for exchange to Plum Creek under section 604 (b) is hereby withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], until such time as the exchange is consummated, or until a particular parcel or parcels are deleted from the exchange under section 605 (d).

“(f) Withdrawal of Cle Elum River Lands.—Lands acquired by the Secretary under this Act that are located in Township 23 North, Range 14 East, and Township 22 North, Range 14 East, Willamette Meridian, shall upon the date of their acquisition be permanently withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.].

“(g) Parcels Subject to Historic or Cultural Resource Restrictions.—

“(1) Report to plum creek.—No later than 180 days after enactment of this Act [Oct. 21, 1998], the Secretary shall complete determinations and consultation under the National Historic Preservation Act [16 U.S.C. 470 et seq.] and submit a report to Plum Creek and other consulting parties under the National Historic Preservation Act listing by exact aliquot part description any parcel or parcels of selected land on which cultural properties have been identified and for which protection, use restrictions or mitigation requirements will be imposed. Such report shall include an exact description of each restriction or mitigation action required.

“(2) Plum creek response.—Within 30 days of receipt of the Secretary’s report under paragraph (1), Plum Creek shall notify the Secretary as to: (i) those parcels it will accept subject to the identified use restrictions or mitigation requirements; and (ii) those parcels it will not accept because the restrictions or mitigation requirements are deemed by Plum Creek to be an unacceptable encumbrance on the land.

“(3) Parcel deletion.—The Secretary shall delete from the selected land those parcels identified by Plum Creek as unacceptable for conveyance under paragraph (2).

“(4) Appraisal adjustment.—The fair market value of any parcels deleted under paragraph (3), or any modification in fair market value caused by the use restrictions or mitigation requirements on land accepted by Plum Creek, shall be based on their contributory value to the final approved appraised value of the selected land and subtracted from such value prior to consummation of the exchange.

“(h) Access Limitation.—The Secretary shall not grant any road easements that would access the offered lands listed in section 604 (a) prior to consummation of the exchange: Provided, That this provision shall not apply should either party withdraw from the exchange.

“SEC. 607. LAND PURCHASE.

“(a) Finding.—The Congress finds that certain lands owned by Plum Creek in the vicinity of the offered lands (but which are not included in the land exchange under this Act, or are deleted under section 605 (c)) are highly desirable for addition to the National Forest System, and that Plum Creek has indicated its willingness to sell certain such lands to the United States. It is the intention of Congress that such lands be acquired by the United States, subject to the availability of funds, by purchase at fair market value consistent with the land acquisition procedures of the Secretary, and with the consent of Plum Creek, in order to preserve their outstanding scenic and natural values for the benefit of future generations.

“(b) Purchase Consultation.—In furtherance of subsection (a), the Secretary is authorized and directed to consult with Plum Creek to determine the precise lands Plum Creek is willing to sell.

“(c) Other Agreements.—Nothing in this Act shall be construed to prohibit the Secretary from entering into additional agreements or contracts with Plum Creek to purchase, exchange or otherwise acquire lands from Plum Creek in Washington or any other state under the laws, rules and regulations generally applicable to Federal land acquisitions.

“SEC. 608. TIETON RIVER STUDY.

TITLE 16 - Section 539I - Designation of James Peak Protection Area, Colorado

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“The Secretary is authorized and directed to consult with Plum Creek concerning opportunities for the United States to acquire by exchange or purchase Plum Creek lands along the Tieton River in Township 14 North, Range 15 East, Willamette Meridian.

“SEC. 609. FUTURE LAND EXCHANGE OPPORTUNITY.

“(a) Finding.—The Congress finds that certain lands which were identified for exchange to the United States in the I-90 Land Exchange process have been, or may be, deleted from the final exchange under this Act due to value equalization or other reasons. However, some or all of such deleted lands, or other Plum Creek lands, may possess attributes that merit their conveyance to the United States in a follow-up land exchange, including lands in or around the Carbon River, the Yakima River, the Pacific Crest Trail, Watch Mountain and Goat Mountain on the Gifford Pinchot National Forest, the Green River and the Manastash late successional reserve.

“(b) Future Exchange.—In furtherance of subsection (a), the Secretary is authorized and directed to consult with Plum Creek in examining opportunities for the United States to acquire such deleted lands, or other Plum Creek lands in the State of Washington, in a future exchange.

“(c) Report to Congress.—Not later than 18 months after the date of enactment of this Act [Oct. 21, 1998], the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources [now Committee on Natural Resources] of the United States House of Representatives briefly outlining future land exchange opportunities with Plum Creek, including those for which the Secretary is required to consult under section 608, which the Secretary determines merit detailed analysis and consideration. The Secretary should identify the most urgent acquisitions for purchase or exchange in the report.

“SEC. 610. WILDERNESS STUDY AREA.

“In furtherance of the purposes of the Wilderness Act [16 U.S.C. 1131 et seq.], if the land exchange directed by this Act is consummated, the area of land comprising approximately 15,000 acres, as generally depicted on a map entitled ‘Alpine Lakes Wilderness Study Area’, dated October 1998, shall be reviewed by the Secretary of Agriculture as to its suitability for preservation as wilderness. The Secretary shall submit a report and findings to the President, and the President shall submit his recommendations to the United States House of Representatives and United States Senate no later than three years after the first date on which deeds are exchanged to consummate the land exchange. Subject to valid existing rights and existing uses, such lands shall, until Congress determines otherwise or until December 31, 2003, be administered by the Secretary to maintain their wilderness character existing as of the date of enactment of this Act and potential for inclusion in the National Wilderness Preservation System, and shall be withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.].

“SEC. 611. KELLY BUTTE SPECIAL MANAGEMENT AREA.

“[Enacted this section.]

“SEC. 612. EFFECT ON COUNTY REVENUES.

“The Secretary shall consult with the appropriate Committees of Congress, and local elected officials in the counties in the State of Washington in which the offered lands are located, regarding options to minimize the adverse effect on county revenues of the transfer of the offered lands from private to Federal ownership.”

.....

§ 539I. Designation of James Peak Protection Area, Colorado

(a) Findings and purpose

(1) Findings

The Congress finds the following:

- (A)** The lands covered by this section include important resources and values, including wildlife habitat, clean water, open space, and opportunities for solitude.
- (B)** These lands also include areas that are suitable for recreational uses, including use of snowmobiles in times of adequate snow cover as well as use of other motorized and nonmotorized mechanical devices.
- (C)** These lands should be managed in a way that affords permanent protection to their resources and values while permitting continued recreational uses in appropriate locales and subject to appropriate regulations.

(2) Purpose

The purpose of this section is to provide for management of certain lands in the Arapaho/Roosevelt National Forest in a manner consistent with the 1997 Revised Land and Resources Management Plan for this forest in order to protect the natural qualities of these areas.

(b) Designation

The approximately 16,000 acres of land in the Arapaho/Roosevelt National Forest generally depicted on the map entitled “Proposed James Peak Protection Area”, dated September 2001, are hereby designated as the James Peak Protection Area (hereafter in this Act referred to as the “Protection Area”).

(c) Map and boundary description

As soon as practicable after August 21, 2002, the Secretary shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the Protection Area. The map and boundary description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and boundary description. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

(d) Management

(1) In general

Except as otherwise provided in this section, the Protection Area shall be managed and administered by the Secretary in the same manner as the management area prescription designations identified for these lands in the 1997 Revision of the Land and Resource Management Plan for the Arapaho/Roosevelt National Forest and the Pawnee National Grasslands. Such management and administration shall be in accordance with the following:

(A) Grazing

Nothing in this Act, including the establishment of the Protection Area, shall affect grazing on lands within or outside of the Protection Area.

(B) Mining withdrawal

Subject to valid existing rights, all Federal land within the Protection Area and all land and interests in land acquired for the Protection Area by the United States are withdrawn from—

- (i) all forms of entry, appropriation, or disposal under the public land laws;
- (ii) location, entry, and patent under the mining laws; and
- (iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

Nothing in this subparagraph shall be construed to affect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this Act.

(C) Motorized and mechanized travel

(i) Review and inventory

Not later than two years after August 21, 2002, the Secretary, in consultation with interested parties, shall complete a review and inventory of all roads and trails in the Protection Area on which use was allowed on September 10, 2001, except those lands managed under the management prescription referred to in subparagraph (F). During the review and inventory, the Secretary may—

- (I)** connect existing roads and trails in the inventoried area to other existing roads and trails in the inventoried area for the purpose of mechanized and other nonmotorized use on any lands within the Protection Area as long as there is no

net gain in the total mileage of either roads or trails open for public use within the Protection Area; and

(II) close or remove roads or trails within the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed pursuant to paragraph (2) of this subsection or subsection (e)(3) of this section.

(ii) After completion of inventory

After completion of the review and inventory required by clause (i), the Secretary shall ensure that motorized and mechanized travel within the Protection Area shall be permitted only on those roads and trails identified as open to use in the inventory or established pursuant to subparagraph (D).

(D) New roads and trails

No new roads or trails shall be established within the Protection Area except those which the Secretary shall establish as follows:

(i) Roads and trails established to replace roads or trails of the same character and scope which have become nonserviceable through reasons other than neglect.

(ii) Nonpermanent roads as needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or other management purposes.

(iii) Roads determined to be appropriate for reasonable access under section 5391-1 (b)(2) of this title.

(iv) A loop trail established pursuant to section 5391-3 of this title.

(v) Construction of a trail for nonmotorized use following the corridor designated as the Continental Divide Trail.

(E) Timber harvesting

No timber harvesting shall be allowed within the Protection Area except to the extent needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or protection of public health or safety.

(F) Special interest area

The management prescription applicable to the lands described in the 1997 Revision of the Land and Resource Management Plan as the James Peak Special Interest Area shall also be applicable to all the lands in the Protection Area that are bounded on the north by Rollins Pass Road, on the east by the Continental Divide, and on the west by the 11,300 foot elevation contour as shown on the map referred to in subsection (b) of this section. In addition, motorized vehicle use shall not be permitted on any part of the Rogers Pass trail.

(2) Natural gas pipeline

The Secretary shall allow for maintenance of rights-of-ways and access roads located within the Protection Area to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01 in a manner that avoids negative impacts on public safety and allows for compliance with Federal pipeline safety requirements. Such maintenance may include vegetation management, road maintenance, ground stabilization, and motorized vehicle access.

(3) Permanent Federal ownership

All right, title, and interest of the United States, held on or acquired after August 21, 2002, to lands within the boundaries of the Protection Area shall be retained by the United States.

(e) Issues related to water

(1) Statutory construction

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(A) Nothing in this Act shall constitute or be construed to constitute either an express or implied reservation of any water or water rights with respect to the lands within the Protection Area.

(B) Nothing in this Act shall affect any conditional or absolute water rights in the State of Colorado existing on August 21, 2002.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future protection area designation.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States.

(2) Colorado water law

The Secretary shall follow the procedural and substantive requirements of the law of the State of Colorado in order to obtain and hold any new water rights with respect to the Protection Area.

(3) Water infrastructure

Nothing in this Act (including the provisions related to establishment or management of the Protection Area) shall affect, impede, interfere with, or diminish the operation, existence, access, maintenance, improvement, or construction of water facilities and infrastructure, rights-of-way, or other water-related property, interests, and uses, (including the use of motorized vehicles and equipment existing or located on lands within the Protection Area) on any lands except those lands managed under the management prescription referred to in subsection (d)(1)(F) of this section.

(Pub. L. 107–216, § 3, Aug. 21, 2002, 116 Stat. 1056.)

References in Text

This Act, referred to in text, is Pub. L. 107–216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 5391 to 5391–5 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

The public land laws, referred to in subsec. (d)(1)(B)(i), are classified generally to Title 43, Public Lands.

The mining laws, referred to in subsec. (d)(1)(B)(ii), are classified generally to Title 30, Mineral Lands and Mining.

The mineral leasing laws, referred to in subsec. (d)(1)(B)(iii), are classified generally to Title 30, Mineral Lands and Mining.

The geothermal leasing laws, referred to in subsec. (d)(1)(B)(iii), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30, Mineral Lands and Mining.

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Short Title

Pub. L. 107–216, § 1, Aug. 21, 2002, 116 Stat. 1055, provided that: “This Act [enacting this section and sections 5391–1 to 5391–5 of this title and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title] may be cited as the ‘James Peak Wilderness and Protection Area Act’.”

“Secretary” Defined

Pub. L. 107–216, § 2(c), Aug. 21, 2002, 116 Stat. 1056, provided in part that in sections 5391 to 5391–5 of this title “Secretary” means the Secretary of Agriculture.

.....

§ 5391–1. Inholdings

(a) State Land Board lands

If the Colorado State Land Board informs the Secretary that the Board is willing to transfer to the United States some or all of the lands owned by the Board located within the Protection Area, the Secretary shall promptly seek to reach agreement with the Board regarding terms and conditions for acquisition of such lands by the United States by purchase or exchange.

(b) Jim Creek inholding

(1) Acquisition of lands

The Secretary shall enter into negotiations with the owner of lands located within the portion of the Jim Creek drainage within the Protection Area for the purpose of acquiring the lands by purchase or exchange, but the United States shall not acquire such lands without the consent of the owner of the lands.

(2) Landowner rights

Nothing in this Act shall affect any rights of the owner of lands located within the Jim Creek drainage within the Protection Area, including any right to reasonable access to such lands by motorized or other means as determined by the Forest Service and the landowner consistent with applicable law and relevant and appropriate rules and regulations governing such access.

(c) Report

(1) In general

The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations conducted pursuant to—

(A) subsection (a) of this section, upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (a) of this section, or 1 year after August 21, 2002, whichever occurs first; and

(B) subsection (b) of this section, upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (b) of this section, or 1 year after August 21, 2002, whichever occurs first.

(2) Funding information

The report required by this subsection shall indicate to what extent funds are available to the Secretary as of the date of the report for the acquisition of the relevant lands and whether additional funds need to be appropriated or otherwise made available to the Secretary for such purpose.

(d) Management of acquisitions

Any lands within the James Peak Wilderness or the Protection Area acquired by the United States after August 21, 2002, shall be added to the James Peak Wilderness or the Protection Area, respectively, and managed accordingly.

(Pub. L. 107–216, § 4, Aug. 21, 2002, 116 Stat. 1059.)

References in Text

This Act, referred to in subsec. (b)(2), is Pub. L. 107–216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 5391 to 5391–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5391 of this title and Tables.

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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§ 5391–2. James Peak Fall River trailhead

(a) Services and facilities

Following the consultation required by subsection (c) of this section, the Forest Supervisor of the Arapaho/Roosevelt National Forest in the State of Colorado (in this section referred to as the “Forest Supervisor”) shall establish a trailhead and corresponding facilities and services to regulate use of National Forest System lands in the vicinity of the Fall River basin south of the communities of Alice Township and St. Mary’s Glacier in the State of Colorado. The facilities and services shall include the following:

- (1) Trailhead parking.
- (2) Public restroom accommodations.
- (3) Trailhead and trail maintenance.

(b) Personnel

The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area described in subsection (a) of this section.

(c) Consultation

The Forest Supervisor shall consult with the Clear Creek County commissioners and with residents of Alice Township and St. Mary’s Glacier regarding—

- (1) the appropriate location of facilities and services in the area described in subsection (a) of this section; and
- (2) appropriate measures that may be needed in this area—
 - (A) to provide access by emergency or law enforcement vehicles;
 - (B) for public health; and
 - (C) to address concerns regarding impeded access by local residents.

(d) Report

After the consultation required by subsection (c) of this section, the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

(Pub. L. 107–216, § 5, Aug. 21, 2002, 116 Stat. 1060.)

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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§ 5391–3. Loop trail study; authorization

(a) Study

Not later than three years after funds are first made available for this purpose, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose set forth in section 5391 (a)(2) of this title, a loop trail for mechanized and other nonmotorized recreation connecting the trail designated as “Rogers Pass” and the trail designated as “Rollins Pass Road”.

(b) Establishment

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

If the results of the study required by subsection (a) of this section indicate that establishment of such a loop trail would be suitable and feasible, consistent with the purpose set forth in section 5391 (a)(2) of this title, the Secretary shall establish the loop trail in a manner consistent with that purpose.

(Pub. L. 107–216, § 6, Aug. 21, 2002, 116 Stat. 1060.)

.....

§ 5391–4. Other administrative provisions

(a) Buffer zones

The designation by this Act or by amendments made by this Act of wilderness areas and the Protection Area in the State of Colorado shall not create or imply the creation of protective perimeters or buffer zones around any wilderness area or the Protection Area. The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area or Protection Area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area or the Protection Area.

(b) Rollins Pass Road

If requested by one or more of the Colorado Counties of Grand, Gilpin, and Boulder, the Secretary shall provide technical assistance and otherwise cooperate with respect to repairing the Rollins Pass road in those counties sufficiently to allow two-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40. If this road is repaired to such extent, the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled “Rollins Pass Road Reopening: Attendant Road and Trail Closures”, dated September 2001.

(Pub. L. 107–216, § 7, Aug. 21, 2002, 116 Stat. 1060.)

References in Text

This Act, referred to in subsec. (a), is Pub. L. 107–216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 5391 to 5391–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5391 of this title and Tables.

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§ 5391–5. Wilderness potential

(a) In general

Nothing in this Act shall preclude or restrict the authority of the Secretary to evaluate the suitability of lands in the Protection Area for inclusion in the National Wilderness Preservation System or to make recommendations to Congress for such inclusion.

(b) Evaluation of certain lands

In connection with the first revision of the land and resources management plan for the Arapaho/Roosevelt National Forest after August 21, 2002, the Secretary shall evaluate the suitability of the lands managed under the management prescription referred to in section 5391 (d)(1)(F) of this title for inclusion in the National Wilderness Preservation System and make recommendations to Congress regarding such inclusion.

(Pub. L. 107–216, § 8, Aug. 21, 2002, 116 Stat. 1061.)

References in Text

This Act, referred to in subsec. (a), is Pub. L. 107–216, Aug. 21, 2002, 116 Stat. 1055, which is classified principally to sections 5391 to 5391–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5391 of this title and Tables.

.....

§ 539m. Findings and purposes

(a) Findings

Congress finds that—

- (1) in 1748, the Pueblo of Sandia received a grant from a representative of the King of Spain, which grant was recognized and confirmed by Congress in 1858 (11 Stat. 374); and
- (2) in 1994, the Pueblo filed a civil action against the Secretary of the Interior and the Secretary of Agriculture in the United States District Court for the District of Columbia (Civil No. 1:94CV02624), asserting that Federal surveys of the grant boundaries erroneously excluded certain land within the Cibola National Forest, including a portion of the Sandia Mountain Wilderness.

(b) Purposes

The purposes of sections 539m to 539m–12 of this title are—

- (1) to establish the T’uf Shur Bien Preservation Trust Area in the Cibola National Forest;
- (2) to confirm the status of national forest land and wilderness land in the Area while resolving issues associated with the civil action referred to in subsection (a)(2) and the opinions of the Solicitor of the Department of the Interior dated December 9, 1988 (M–36963; 96 I.D. 331) and January 19, 2001 (M–37002); and
- (3) to provide the Pueblo, the parties to the civil action, and the public with a fair and just settlement of the Pueblo’s claim.

(Pub. L. 108–7, div. F, title IV, § 402, Feb. 20, 2003, 117 Stat. 279.)

References in Text

Sections 539m to 539m–12 of this title, referred to in subsec. (b), was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out below and Tables.

Effective Date

Pub. L. 108–7, div. F, title IV, § 415, Feb. 20, 2003, 117 Stat. 294, provided that: “The provisions of this title [see Short Title note below] shall take effect immediately on enactment of this Act [Feb. 20, 2003].”

Short Title

Pub. L. 108–7, div. F, title IV, § 401, Feb. 20, 2003, 117 Stat. 279, provided that: “This title [enacting this section and sections 539m–1 to 539m–12 of this title, amending section 1746 of Title 43, Public Lands, and enacting provisions set out as a note above] may be cited as the ‘T’uf Shur Bien Preservation Trust Area Act’.”

.....

§ 539m–1. Definitions

In sections 539m to 539m–12 of this title:

(1) Area

(A) In general

The term “Area” means the T’uf Shur Bien Preservation Trust Area, comprised of approximately 9890 acres of land in the Cibola National Forest, as depicted on the map.

(B) Exclusions

The term “Area” does not include—

- (i) the subdivisions;
- (ii) Pueblo-owned land;

- (iii) the crest facilities; or
- (iv) the special use permit area.

(2) Crest facilities

The term “crest facilities” means—

- (A) all facilities and developments located on the crest of Sandia Mountain, including the Sandia Crest Electronic Site;
- (B) electronic site access roads;
- (C) the Crest House;
- (D) the upper terminal, restaurant, and related facilities of Sandia Peak Tram Company;
- (E) the Crest Observation Area;
- (F) parking lots;
- (G) restrooms;
- (H) the Crest Trail (Trail No. 130);
- (I) hang glider launch sites;
- (J) the Kiwanis cabin; and
- (K) the land on which the facilities described in subparagraphs (A) through (J) are located and the land extending 100 feet along terrain to the west of each such facility, unless a different distance is agreed to in writing by the Secretary and the Pueblo and documented in the survey of the Area.

(3) Existing use

The term “existing use” means a use that—

- (A) is occurring in the Area as of February 20, 2003; or
- (B) is authorized in the Area after November 1, 1995, but before February 20, 2003.

(4) La Luz tract

The term “La Luz tract” means the tract comprised of approximately 31 acres of land owned in fee by the Pueblo and depicted on the map.

(5) Local public body

The term “local public body” means a political subdivision of the State of New Mexico (as defined in New Mexico Code 6–5–1).

(6) Map

The term “map” means the Forest Service map entitled “T’uf Shur Bien Preservation Trust Area” and dated April 2000.

(7) Modified use

(A) In general

The term “modified use” means an existing use that, at any time after February 20, 2003, is modified or reconfigured but not significantly expanded.

(B) Inclusions

The term “modified use” includes—

- (i) a trail or trailhead being modified, such as to accommodate handicapped access;
- (ii) a parking area being reconfigured (but not expanded); and
- (iii) a special use authorization for a group recreation use being authorized for a different use area or time period.

(8) New use

(A) In general

The term “new use” means—

- (i) a use that is not occurring in the Area as of February 20, 2003; and
- (ii) an existing use that is being modified so as to be significantly expanded or altered in scope, dimension, or impact on the land, water, air, or wildlife resources of the Area.

(B) Exclusions

The term “new use” does not include a use that—

- (i) is categorically excluded from documentation requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or
- (ii) is carried out to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(9) Piedra Lisa tract

The term “Piedra Lisa tract” means the tract comprised of approximately 160 acres of land owned by the Pueblo and depicted on the map.

(10) Pueblo

The term “Pueblo” means the Pueblo of Sandia in its governmental capacity.

(11) Secretary

The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(12) Settlement Agreement

The term “Settlement Agreement” means the Agreement of Compromise and Settlement dated April 4, 2000, among the United States, the Pueblo, and the Sandia Peak Tram Company.

(13) Special use permit

The term “special use permit” means the Special Use Permit issued December 1, 1993, by the Secretary to Sandia Peak Tram Company and Sandia Peak Ski Company.

(14) Special use permit area

(A) In general

The term “special use permit area” means the land and facilities subject to the special use permit.

(B) Inclusions

The term “special use permit area” includes—

- (i) approximately 46 acres of land used as an aerial tramway corridor;
- (ii) approximately 945 acres of land used as a ski area; and
- (iii) the land and facilities described in Exhibit A to the special use permit, including—
 - (I) the maintenance road to the lower tram tower;
 - (II) water storage and water distribution facilities; and
 - (III) 7 helispots.

(15) Subdivision

The term “subdivision” means—

(A) the subdivision of—

- (i) Sandia Heights Addition;
- (ii) Sandia Heights North Unit I, II, or 3;
- (iii) Tierra Monte;
- (iv) Valley View Acres; or
- (v) Evergreen Hills; and

(B) any additional plat or privately-owned property depicted on the map.

(16) Traditional or cultural use

The term “traditional or cultural use” means—

- (A) a ceremonial activity (including the placing of ceremonial materials in the Area); and
- (B) the use, hunting, trapping, or gathering of plants, animals, wood, water, and other natural resources for a noncommercial purpose.

(Pub. L. 108–7, div. F, title IV, § 403, Feb. 20, 2003, 117 Stat. 280.)

References in Text

Sections 539m to 539m–12 of this title, referred to in text, was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

The National Environmental Policy Act of 1969, referred to in par. (8)(B)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act of 1973, referred to in par. (8)(B)(ii), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

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§ 539m–2. T'uf Shur Bien Preservation Trust Area

(a) Establishment

The T'uf Shur Bien Preservation Trust Area is established within the Cibola National Forest and the Sandia Mountain Wilderness as depicted on the map—

- (1) to recognize and protect in perpetuity the rights and interests of the Pueblo in and to the Area, as specified in section 539m–3 (a) of this title;
- (2) to preserve in perpetuity the national forest and wilderness character of the Area; and
- (3) to recognize and protect in perpetuity the longstanding use and enjoyment of the Area by the public.

(b) Administration and applicable law

(1) In general

The Secretary shall continue to administer the Area as part of the National Forest System subject to and consistent with the provisions of sections 539m to 539m–12 of this title affecting management of the Area.

(2) Traditional or cultural uses

Traditional or cultural uses by Pueblo members and members of other federally-recognized Indian tribes authorized to use the Area by the Pueblo under section 539m–3 (a)(4) of this title shall not be restricted except by—

- (A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on February 20, 2003; and
- (B) applicable Federal wildlife protection laws, as provided in section 539m–4 (a)(2) of this title.

(3) Later enactments

To the extent that any law enacted or amended after February 20, 2003, is inconsistent with sections 539m to 539m–12 of this title, the law shall not apply to the Area unless expressly made applicable by Congress.

(4) Trust

The use of the word “Trust” in the name of the Area—

- (A) is in recognition of the specific rights and interests of the Pueblo in the Area; and

(B) does not confer on the Pueblo the ownership interest that exists in a case in which the Secretary of the Interior accepts the title to land held in trust for the benefit of an Indian tribe.

(c) Map

(1) Filing

As soon as practicable after February 20, 2003, the Secretary shall file the map and a legal description of the Area with the Committee on Resources of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate.

(2) Public availability

The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(3) Effect

The map and legal description filed under paragraph (1) shall have the same effect as if the map and legal description were included in sections 539m to 539m–12 of this title, except that—

(A) technical and typographical errors shall be corrected;

(B) changes that may be necessary under subsection (b), (d), or (e) of section 539m–7 of this title or subsection (b) or (c) of section 539m–11 of this title shall be made; and

(C) to the extent that the map and the language of sections 539m to 539m–12 of this title conflict, the language of sections 539m to 539m–12 of this title shall control.

(d) No conveyance of title

No right, title, or interest of the United States in or to the Area or any part of the Area shall be conveyed to or exchanged with any person, trust, or governmental entity, including the Pueblo, without specific authorization of Congress.

(e) Prohibited uses

(1) In general

Notwithstanding any other provision of law—

(A) no use prohibited by the Wilderness Act (16 U.S.C. 1131 et seq.) as of February 20, 2003, shall be permitted in the wilderness portion of the Area; and

(B) none of the following uses shall be permitted in any portion of the Area:

(i) Gaming or gambling.

(ii) Mineral production.

(iii) Timber production.

(iv) Any new use to which the Pueblo objects under section 539m–3 (a)(3) of this title.

(2) Mining claims

The Area is closed to the location of mining claims under section 2320 of the Revised Statutes (30 U.S.C. 23) (commonly known as the “Mining Law of 1872”).

(f) No modification of boundaries

Establishment of the Area shall not—

(1) affect the boundaries of or repeal or disestablish the Sandia Mountain Wilderness or the Cibola National Forest; or

(2) modify the existing boundary of the Pueblo grant.

(Pub. L. 108–7, div. F, title IV, § 404, Feb. 20, 2003, 117 Stat. 282.)

References in Text

Sections 539m to 539m–12 of this title, referred to in subsecs. (b)(1), (3) and (c)(3), was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

The Wilderness Act, referred to in subsecs. (b)(2)(A) and (e)(1)(A), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Mining Law of 1872, referred to in subsec. (e)(2), is act May 10, 1872, ch. 152, 17 Stat. 91, which was incorporated into the Revised Statutes of 1878 as R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30, Mineral Lands and Mining. For complete classification of such Revised Statutes sections to the Code, see Tables.

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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§ 539m–3. Pueblo rights and interests in the Area

(a) In general

The Pueblo shall have the following rights and interests in the Area:

- (1) Free and unrestricted access to the Area for traditional or cultural uses, to the extent that those uses are not inconsistent with—
 - (A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on February 20, 2003; or
 - (B) applicable Federal wildlife protection laws as provided in section 539m–4 (a)(2) of this title.
- (2) Perpetual preservation of the national forest and wilderness character of the Area under sections 539m to 539m–12 of this title.
- (3) Rights in the management of the Area as specified in section 539m–5 of this title, including—
 - (A) the right to consent or withhold consent to a new use;
 - (B) the right to consultation regarding a modified use;
 - (C) the right to consultation regarding the management and preservation of the Area; and
 - (D) the right to dispute resolution procedures.
- (4) Exclusive authority, in accordance with the customs and laws of the Pueblo, to administer access to the Area for traditional or cultural uses by members of the Pueblo and of other federally-recognized Indian tribes.
- (5) Such other rights and interests as are recognized in subsection (c) of this section and sections 539m–2, 539m–5, 539m–6, and 539m–7 of this title.

(b) Access

Except as provided in subsection (a)(4), access to and use of the Area for all other purposes shall continue to be administered by the Secretary.

(c) Compensable interest

(1) In general

If, by an Act of Congress enacted after February 20, 2003, Congress diminishes the national forest or wilderness designation of the Area by authorizing a use prohibited by section 539m–2 (e) of this title in all or any portion of the Area, or denies the Pueblo access for any traditional or cultural use in all or any portion of the Area—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

- (A) the United States shall compensate the Pueblo as if the Pueblo held a fee title interest in the affected portion of the Area and as though the United States had acquired such an interest by legislative exercise of the power of eminent domain; and
- (B) the restrictions of sections 539m-2 (e) and 539m-4 (a) of this title shall be disregarded in determining just compensation owed to the Pueblo.

(2) **Effect**

Any compensation made to the Pueblo under paragraph (c) ¹ shall not affect the extinguishment of claims under section 539m-8 of this title.

Footnotes

¹ So in original. Probably should be paragraph “(1)”.

(Pub. L. 108-7, div. F, title IV, § 405, Feb. 20, 2003, 117 Stat. 283.)

References in Text

The Wilderness Act, referred to in subsec. (a)(1)(A), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

Sections 539m to 539m-12 of this title, referred to in subsec. (a)(2), was in the original “this title”, meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

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§ 539m-4. Limitations on Pueblo rights and interests in the Area

(a) **Limitations**

The rights and interests of the Pueblo recognized in sections 539m to 539m-12 of this title do not include—

- (1) any right to sell, grant, lease, convey, encumber, or exchange land or any interest in land in the Area (and any such conveyance shall not have validity in law or equity);
- (2) any exemption from applicable Federal wildlife protection laws;
- (3) any right to engage in a use prohibited by section 539m-2 (e) of this title; or
- (4) any right to exclude persons or governmental entities from the Area.

(b) **Exception**

No person who exercises traditional or cultural use rights as authorized by section 539m-3 (a)(4) of this title may be prosecuted for a Federal wildlife offense requiring proof of a violation of a State law (including regulations).

(Pub. L. 108-7, div. F, title IV, § 406, Feb. 20, 2003, 117 Stat. 284.)

References in Text

Sections 539m to 539m-12 of this title, referred to in subsec. (a), was in the original “this title”, meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

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§ 539m-5. Management of the Area

(a) **Process**

(1) In general

The Secretary shall consult with the Pueblo not less than twice each year, unless otherwise mutually agreed, concerning protection, preservation, and management of the Area (including proposed new uses and modified uses in the Area and authorizations that are anticipated during the next 6 months and were approved in the preceding 6 months).

(2) New uses

(A) Request for consent after consultation

(i) Denial of consent

If the Pueblo denies consent for a new use within 30 days after completion of the consultation process, the Secretary shall not proceed with the new use.

(ii) Granting of consent

If the Pueblo consents to the new use in writing or fails to respond within 30 days after completion of the consultation process, the Secretary may proceed with the notice and comment process and the environmental analysis.

(B) Final request for consent

(i) Request

Before the Secretary (or a designee) signs a record of decision or decision notice for a proposed new use, the Secretary shall again request the consent of the Pueblo.

(ii) Denial of consent

If the Pueblo denies consent for a new use within 30 days after receipt by the Pueblo of the proposed record of decision or decision notice, the new use shall not be authorized.

(iii) Failure to respond

If the Pueblo fails to respond to the consent request within 30 days after receipt of the proposed record of decision or decision notice—

(I) the Pueblo shall be deemed to have consented to the proposed record of decision or decision notice; and

(II) the Secretary may proceed to issue the final record of decision or decision notice.

(3) Public involvement

(A) In general

With respect to a proposed new use or modified use, the public shall be provided notice of—

(i) the purpose and need for the proposed new use or modified use;

(ii) the role of the Pueblo in the decisionmaking process; and

(iii) the position of the Pueblo on the proposal.

(B) Court challenge

Any person may bring a civil action in the United States District Court for the District of New Mexico to challenge a determination by the Secretary concerning whether a use constitutes a new use or a modified use.

(b) Emergencies and emergency closure orders

(1) Authority

The Secretary shall retain the authority of the Secretary to manage emergency situations, to—

(A) provide for public safety; and

(B) issue emergency closure orders in the Area subject to applicable law.

(2) Notice

The Secretary shall notify the Pueblo regarding emergencies, public safety issues, and emergency closure orders as soon as practicable.

(3) No consent

An action of the Secretary described in paragraph (1) shall not require the consent of the Pueblo.

(c) Disputes involving Forest Service management and Pueblo traditional uses

(1) In general

In a case in which the management of the Area by the Secretary conflicts with a traditional or cultural use, if the conflict does not pertain to a new use subject to the process specified in subsection (a)(2), the process for dispute resolution specified in this subsection shall apply.

(2) Dispute resolution process

(A) In general

In the case of a conflict described in paragraph (1)—

- (i)** the party identifying the conflict shall notify the other party in writing addressed to the Governor of the Pueblo or the Regional Forester, as appropriate, specifying the nature of the dispute; and
- (ii)** the Governor of the Pueblo or the Regional Forester shall attempt to resolve the dispute for a period of at least 30 days after notice has been provided before bringing a civil action in the United States District Court for the District of New Mexico.

(B) Disputes requiring immediate resolution

In the case of a conflict that requires immediate resolution to avoid imminent, substantial, and irreparable harm—

- (i)** the party identifying the conflict shall notify the other party and seek to resolve the dispute within 3 days of the date of notification; and
- (ii)** if the parties are unable to resolve the dispute within 3 days—
 - (I)** either party may bring a civil action for immediate relief in the United States District Court for the District of New Mexico; and
 - (II)** the procedural requirements specified in subparagraph (A) shall not apply.

(Pub. L. 108–7, div. F, title IV, § 407, Feb. 20, 2003, 117 Stat. 284.)

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§ 539m–6. Jurisdiction over the Area

(a) Criminal jurisdiction

(1) In general

Notwithstanding any other provision of law, jurisdiction over crimes committed in the Area shall be allocated as provided in this paragraph.¹

(2) Jurisdiction of the Pueblo

The Pueblo shall have jurisdiction over an offense committed by a member of the Pueblo or of another federally-recognized Indian tribe who is present in the Area with the permission of the Pueblo under section 539m–3 (a)(4) of this title.

(3) Jurisdiction of the United States

The United States shall have jurisdiction over—

- (A)** an offense described in section 1153 of title 18 committed by a member of the Pueblo or another federally-recognized Indian tribe;
- (B)** an offense committed by any person in violation of the laws (including regulations) pertaining to the protection and management of national forests;

- (C) enforcement of Federal criminal laws of general applicability; and
- (D) any other offense committed by a member of the Pueblo against a person not a member of the Pueblo.

(4) Jurisdiction of the State of New Mexico

The State of New Mexico shall have jurisdiction over an offense under the law of the State committed by a person not a member of the Pueblo.

(5) Overlapping jurisdiction

To the extent that the respective allocations of jurisdiction over the Area under paragraphs (2), (3), and (4) overlap, the governments shall have concurrent jurisdiction.

(6) Federal use of State law

Under the jurisdiction of the United States described in paragraph (3)(D), Federal law shall incorporate any offense defined and punishable under State law that is not so defined under Federal law.

(b) Civil jurisdiction

(1) In general

Except as provided in paragraphs (2) and (3), the United States, the State of New Mexico, and local public bodies shall have the same civil adjudicatory, regulatory, and taxing jurisdiction over the Area as was exercised by those entities on the day before February 20, 2003.

(2) Jurisdiction of the Pueblo

(A) In general

The Pueblo shall have exclusive civil adjudicatory jurisdiction over—

- (i) a dispute involving only members of the Pueblo;
- (ii) a civil action brought by the Pueblo against a member of the Pueblo; and
- (iii) a civil action brought by the Pueblo against a member of another federally-recognized Indian tribe for a violation of an understanding between the Pueblo and the other tribe regarding use of or access to the Area for traditional or cultural uses.

(B) Regulatory jurisdiction

The Pueblo shall have no regulatory jurisdiction over the Area, except that the Pueblo shall have exclusive authority to—

- (i) regulate traditional or cultural uses by the members of the Pueblo and administer access to the Area by other federally-recognized Indian tribes for traditional or cultural uses, to the extent such regulation is consistent with sections 539m to 539m–12 of this title; and
- (ii) regulate hunting and trapping in the Area by members of the Pueblo, to the extent that the hunting or trapping is related to traditional or cultural uses, except that such hunting and trapping outside of that portion of the Area in sections 13, 14, 23, 24, and the northeast quarter of section 25 of T12N, R4E, and section 19 of T12N, R5E, N.M.P.M., Sandoval County, New Mexico, shall be regulated by the Pueblo in a manner consistent with the regulations of the State of New Mexico concerning types of weapons and proximity of hunting and trapping to trails and residences.

(C) Taxing jurisdiction

The Pueblo shall have no authority to impose taxes within the Area.

(3) State and local taxing jurisdiction

The State of New Mexico and local public bodies shall have no authority within the Area to tax the uses or the property of the Pueblo, members of the Pueblo, or members of other

federally-recognized Indian tribes authorized to use the Area under section 539m-3 (a)(4) of this title.

Footnotes

¹ So in original. Probably should be “subsection.”

(Pub. L. 108-7, div. F, title IV, § 408, Feb. 20, 2003, 117 Stat. 286.)

References in Text

Sections 539m to 539m-12 of this title, referred to in subsec. (b)(2)(B)(i), was in the original “this title”, meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

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§ 539m-7. Subdivisions and other property interests

(a) Subdivisions

(1) In general

The subdivisions are excluded from the Area.

(2) Jurisdiction

(A) In general

The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the subdivisions and property interests therein, and the laws of the Pueblo shall not apply to the subdivisions.

(B) State jurisdiction

The jurisdiction of the State of New Mexico and local public bodies over the subdivisions and property interests therein shall continue in effect, except that on application of the Pueblo a tract comprised of approximately 35 contiguous, nonsubdivided acres in the northern section of Evergreen Hills owned in fee by the Pueblo on February 20, 2003, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior.

(3) Limitations on trust land

Trust land described in paragraph (2)(B) shall be subject to all limitations on use pertaining to the Area contained in sections 539m to 539m-12 of this title.

(b) Piedra Lisa

(1) In general

The Piedra Lisa tract is excluded from the Area.

(2) Declaration of trust title

The Piedra Lisa tract—

(A) shall be transferred to the United States;

(B) is declared to be held in trust for the Pueblo by the United States; and

(C) shall be administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in sections 539m to 539m-12 of this title.

(3) Applicability of certain restriction

The restriction contained in section 539m-4 (a)(4) of this title shall not apply outside of Forest Service System trails.

(c) Crest facilities

(1) In general

The land on which the crest facilities are located is excluded from the Area.

(2) Jurisdiction

The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the land on which the crest facilities are located and property interests therein, and the laws of the Pueblo, shall not apply to that land. The preexisting jurisdictional status of that land shall continue in effect.

(d) Special use permit area

(1) In general

The land described in the special use permit is excluded from the Area.

(2) Jurisdiction

(A) In general

The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory, or any other form of jurisdiction, over the land described in the special use permit, and the laws of the Pueblo shall not apply to that land.

(B) Preexisting status

The preexisting jurisdictional status of that land shall continue in effect.

(3) Amendment to plan

In the event the special use permit, during its existing term or any future terms or extensions, requires amendment to include other land in the Area necessary to realign the existing or any future replacement tram line, associated structures, or facilities, the land subject to that amendment shall thereafter be excluded from the Area and shall have the same status under sections 539m to 539m–12 of this title as the land currently described in the special use permit.

(4) Land dedicated to aerial tramway and related uses

Any land dedicated to aerial tramway and related uses and associated facilities that are excluded from the special use permit through expiration, termination or the amendment process shall thereafter be included in the Area, but only after final agency action no longer subject to any appeals.

(e) La Luz tract

(1) In general

The La Luz tract now owned in fee by the Pueblo is excluded from the Area and, on application by the Pueblo, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in sections 539m to 539m–12 of this title.

(2) Nonapplicability of certain restriction

The restriction contained in section 539m–4 (a)(4) of this title shall not apply outside of Forest Service System trails.

(f) Evergreen Hills access

The Secretary shall ensure that Forest Service Road 333D, as depicted on the map, is maintained in an adequate condition in accordance with section 3210 (a) of this title.

(g) Pueblo fee land

Those properties not specifically addressed in subsections ¹ (a) or (e) that are owned in fee by the Pueblo within the subdivisions are excluded from the Area and shall be subject to the jurisdictional provisions of subsection (a).

(h) Rights-of-way

(1) Road rights-of-way

(A) In general

In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the County of Bernalillo, New Mexico, in perpetuity, the following irrevocable rights-of-way for roads identified on the map in order to provide for public access to the subdivisions, the special use permit land and facilities, the other leasehold and easement rights and interests of the Sandia Peak Tram Company and its affiliates, the Sandia Heights South Subdivision, and the Area—

- (i) a right-of-way for Tramway Road;
- (ii) a right-of-way for Juniper Hill Road North;
- (iii) a right-of-way for Juniper Hill Road South;
- (iv) a right-of-way for Sandia Heights Road; and
- (v) a right-of-way for Juan Tabo Canyon Road (Forest Road No. 333).

(B) Conditions

The road rights-of-way shall be subject to the following conditions:

- (i) Such rights-of-way may not be expanded or otherwise modified without the Pueblo's written consent, but road maintenance to the rights-of-way shall not be subject to Pueblo consent.
- (ii) The rights-of-way shall not authorize uses for any purpose other than roads without the Pueblo's written consent.
- (iii) Except as provided in the Settlement Agreement, existing rights-of-way or leasehold interests and obligations held by the Sandia Peak Tram Company and its affiliates, shall be preserved, protected, and unaffected by sections 539m to 539m-12 of this title.

(2) Utility rights-of-way

In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant irrevocable utility rights-of-way in perpetuity across Pueblo land to appropriate utility or other service providers serving Sandia Heights Addition, Sandia Heights North Units I, II, and 3, the special use permit land, Tierra Monte, and Valley View Acres, including rights-of-way for natural gas, power, water, telecommunications, and cable television services. Such rights-of-way shall be within existing utility corridors as depicted on the map or, for certain water lines, as described in the existing grant of easement to the Sandia Peak Utility Company: Provided, That use of water line easements outside the utility corridors depicted on the map shall not be used for utility purposes other than water lines and associated facilities. Except where above-ground facilities already exist, all new utility facilities shall be installed underground unless the Pueblo agrees otherwise. To the extent that enlargement of existing utility corridors is required for any technologically-advanced telecommunication, television, or utility services, the Pueblo shall not unreasonably withhold agreement to a reasonable enlargement of the easements described above.

(3) Forest Service rights-of-way

In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the Forest Service the following irrevocable rights-of-way in perpetuity for Forest Service trails crossing land of the Pueblo in order to provide for public access to the Area and through Pueblo land—

- (A) a right-of-way for a portion of the Crest Spur Trail (Trail No. 84), crossing a portion of the La Luz tract, as identified on the map;

- (B) a right-of-way for the extension of the Foothills Trail (Trail No. 365A), as identified on the map; and
- (C) a right-of-way for that portion of the Piedra Lisa North-South Trail (Trail No. 135) crossing the Piedra Lisa tract.

Footnotes

¹ So in original. Probably should be “subsection”.

(Pub. L. 108–7, div. F, title IV, § 409, Feb. 20, 2003, 117 Stat. 287.)

References in Text

Sections 539m to 539m–12 of this title, referred to in subsecs. (a)(3), (b)(2)(C), (d)(3), (e)(1), and (h)(1)(B)(iii), was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

.....

§ 539m–8. Extinguishment of claims

(a) In general

Except for the rights and interests in and to the Area specifically recognized in sections 539m–2, 539m–3, 539m–5, 539m–6, and 539m–7 of this title, all Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to land within the Area, any part thereof, and property interests therein, as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished. The United States’ title to the Area is confirmed.

(b) Subdivisions

Any Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to the subdivisions and property interests therein (except for land owned in fee by the Pueblo as of February 20, 2003), as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished.

(c) Special use and crest facilities areas

Any Pueblo right, title and interest of any kind, including aboriginal claims, and related boundary, survey, trespass, and monetary damage claims, are permanently extinguished in and to—

- (1) the land described in the special use permit; and
- (2) the land on which the crest facilities are located.

(d) Pueblo agreement

As provided in the Settlement Agreement, the Pueblo has agreed to the relinquishment and extinguishment of those claims, rights, titles and interests extinguished pursuant to subsection ¹ (a), (b), and (c).

(e) Consideration

The recognition of the Pueblo’s rights and interests in sections 539m to 539m–12 of this title constitutes adequate consideration for the Pueblo’s agreement to the extinguishment of the Pueblo’s claims in this section and the right-of-way grants contained in section 539m–7 of this title, and it is the intent of Congress that those rights and interests may only be diminished by a future Act of Congress specifically authorizing diminishment of such rights, with express reference to sections 539m to 539m–12 of this title.

Footnotes

¹ So in original. Probably should be “subsections”.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

(Pub. L. 108–7, div. F, title IV, § 410, Feb. 20, 2003, 117 Stat. 290.)

References in Text

Sections 539m to 539m–12 of this title, referred to in subsec. (e), was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

.....

§ 539m–9. Construction

(a) Strict construction

Sections 539m to 539m–12 of this title recognize only enumerated rights and interests, and no additional rights, interests, obligations, or duties shall be created by implication.

(b) Existing rights

To the extent there exist within the Area as of February 20, 2003, any valid private property rights associated with private land that are not otherwise addressed in sections 539m to 539m–12 of this title, such rights are not modified or otherwise affected by sections 539m to 539m–12 of this title, nor is the exercise of any such right subject to the Pueblo’s right to withhold consent to new uses in the Area as set forth in section 539m–3 (a)(3)(A) of this title.

(c) Not precedent

The provisions of sections 539m to 539m–12 of this title creating certain rights and interests in the National Forest System are uniquely suited to resolve the Pueblo’s claim and the geographic and societal situation involved, and shall not be construed as precedent for any other situation involving management of the National Forest System.

(d) Fish and wildlife

Except as provided in section 539m–6 (b)(2)(B) of this title, nothing in sections 539m to 539m–12 of this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, or trapping within the Area.

(Pub. L. 108–7, div. F, title IV, § 411, Feb. 20, 2003, 117 Stat. 291.)

References in Text

Sections 539m to 539m–12 of this title, referred to in text, was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

Codification

Section is comprised of section 411 of div. F of Pub. L. 108–7. Subsec. (e) of section 411 of div. F of Pub. L. 108–7 amended section 1746 of Title 43, Public Lands.

.....

§ 539m–10. Judicial review

(a) Enforcement

A civil action to enforce the provisions of sections 539m to 539m–12 of this title may be brought to the extent permitted under chapter 7 of title 5. Judicial review shall be based on the administrative record and subject to the applicable standard of review set forth in section 706 of title 5.

(b) Waiver

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

A civil action may be brought against the Pueblo for declaratory judgment or injunctive relief under sections 539m to 539m–12 of this title, but no money damages, including costs or attorney’s fees, may be imposed on the Pueblo as a result of such judicial action.

(c) Venue

Venue for any civil action provided for in this section, as well as any civil action to contest the constitutionality of sections 539m to 539m–12 of this title, shall lie only in the United States District Court for the District of New Mexico.

(Pub. L. 108–7, div. F, title IV, § 412, Feb. 20, 2003, 117 Stat. 291.)

References in Text

Sections 539m to 539m–12 of this title, referred to in text, was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

.....

§ 539m–11. Provisions relating to contributions and land exchange

(a) Contributions

(1) In general

The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with sections 539m to 539m–12 of this title.

(2) Deadline

Not later than 1 year after February 20, 2003, the Secretary shall complete the survey of the Area under paragraph (1)(A).

(b) Land exchange

(1) In general

Not later than 180 days after February 20, 2003, after consultation with the Pueblo, the Secretary shall, in accordance with applicable laws, prepare and offer a land exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo’s Reservation within sections 3, 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding wilderness land, for land owned by the Pueblo in the Evergreen Hills subdivision in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.

(2) Acceptance of payment

Notwithstanding section 1716 (b) of title 43, the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

(3) Funds received

Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established under section 484a of this title, and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

(4) Treatment of land exchanged or conveyed

All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo by the United States and added to the Pueblo’s Reservation subject to all existing and outstanding rights and shall, as a condition of the conveyance, remain in its natural state and shall not be subject to

commercial development of any kind. Land exchanged or conveyed to the Forest Service shall be subject to all limitations on use pertaining to the Area under sections 539m to 539m-12 of this title.

(5) Failure to make offer

If the land exchange offer is not made by the date that is 180 days after February 20, 2003, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a report explaining the reasons for the failure to make the offer including an assessment of the need for any additional legislation that may be necessary for the exchange. If additional legislation is not necessary, the Secretary, consistent with this section, should proceed with the exchange pursuant to existing law.

(c) Land acquisition and other compensation

(1) In general

The Secretary may acquire land owned by the Pueblo within the Evergreen Hills Subdivision in Sandoval County or any other privately held land inside of the exterior boundaries of the Area. The boundaries of the Cibola National Forest and the Area shall be adjusted to encompass any land acquired pursuant to this section.

(2) Piedra Lisa tract

Subject to the availability of appropriations, the Secretary shall compensate the Pueblo for the fair market value of—

- (A)** the right-of-way established pursuant to section 539m-7 (h)(3)(C) of this title; and
- (B)** the conservation easement established by the limitations on use of the Piedra Lisa tract pursuant to section 539m-7 (b)(2) of this title.

(d) Reimbursement of certain costs

(1) In general

The Pueblo, the County of Bernalillo, New Mexico, and any person that owns or has owned property inside of the exterior boundaries of the Area as designated on the map, and who has incurred actual and direct costs as a result of participating in the case of Pueblo of Sandia v. Babbitt, Civ. No. 94-2624 HHG (D.D.C.), or other proceedings directly related to resolving the issues litigated in that case, may apply for reimbursement in accordance with this section. Costs directly related to such participation which shall qualify for reimbursement shall be—

- (A)** dues or payments to a homeowner association for the purpose of legal representation; and
- (B)** legal fees and related expenses.

(2) Treatment of reimbursement

Any reimbursement provided in this subsection shall be in lieu of that which might otherwise be available pursuant to the Equal Access to Justice Act (24¹ U.S.C. 2412).

(3) Payments

Subject to the availability of appropriated funds the Secretary of the Treasury shall make reimbursement payments as provided in this section.

(4) Applications

Not later than 180 days after February 20, 2003, applications for reimbursement shall be filed with the Department of the Treasury, Financial Management Service, Washington, D.C.

(5) Maximum reimbursement

No party shall be reimbursed in excess of \$750,000 under this section, and the total amount reimbursed in accordance with this section shall not exceed \$3,000,000.

Footnotes

¹ So in original. Probably should be “28”.

(Pub. L. 108–7, div. F, title IV, § 413, Feb. 20, 2003, 117 Stat. 292; Pub. L. 111–11, title III, § 3309, Mar. 30, 2009, 123 Stat. 1139.)

References in Text

Sections 539m to 539m–12 of this title, referred to in subsecs. (a)(1)(B) and (b)(4), was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

Section 1716 (b) of title 43, referred to in subsec. (b)(2), was in the original “section 206(b) of the Federal Land Policy and Management Act” and was translated as reading “section 206(b) of the Federal Land Policy and Management Act of 1976” to reflect the probable intent of Congress.

The Equal Access to Justice Act, referred to in subsec. (d)(2), is title II of Pub. L. 96–481, Oct. 21, 1980, 94 Stat. 2325, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 504 of Title 5, Government Organization and Employees, and Tables.

Amendments

2009—Subsec. (b)(1). Pub. L. 111–11, § 3309(1), inserted “3,” after “sections”.

Subsec. (b)(4). Pub. L. 111–11, § 3309(2), inserted “, as a condition of the conveyance,” before “remain” in first sentence.

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

.....

§ 539m–12. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out sections 539m to 539m–12 of this title, including such sums as are necessary for the Forest Service to carry out responsibilities of the Forest Service in accordance with section 539m–11 (c) of this title.

(Pub. L. 108–7, div. F, title IV, § 414, Feb. 20, 2003, 117 Stat. 294.)

References in Text

Sections 539m to 539m–12 of this title, referred to in text, was in the original “this title”, meaning title IV of div. F of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m–12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

.....

§ 539n. Crystal Springs Watershed Special Resources Management Unit

(1) Establishment

(A) In general

On completion of the land exchange under section 1206 (a)(2),¹ there shall be established a special resources management unit in the State consisting of certain Federal land managed by the Forest Service, as generally depicted on the map entitled “Crystal Springs Watershed Special Resources Management Unit”, dated June 2006 (referred to in this section as the “map”), to be known as the “Crystal Springs Watershed Special Resources Management Unit” (referred to in this section as the “Management Unit”).

(B) Exclusion of certain land

The Management Unit does not include any National Forest System land otherwise covered by subparagraph (A) that is designated as wilderness by section 1202.¹

(C) Withdrawal

(i) In general

Subject to valid rights in existence on March 30, 2009, the Federal land designated as the Management Unit is withdrawn from all forms of—

- (I)** entry, appropriation, or disposal under the public land laws;
- (II)** location, entry, and patent under the mining laws; and
- (III)** disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(ii) Exception

Clause (i)(I) does not apply to the parcel of land generally depicted as “HES 151” on the map.

(2) Purposes

The purposes of the Management Unit are—

- (A)** to ensure the protection of the quality and quantity of the Crystal Springs watershed as a clean drinking water source for the residents of Hood River County, Oregon; and
- (B)** to allow visitors to enjoy the special scenic, natural, cultural, and wildlife values of the Crystal Springs watershed.

(3) Map and legal description

(A) Submission of legal description

As soon as practicable after March 30, 2009, the Secretary shall file a map and a legal description of the Management Unit with—

- (i)** the Committee on Energy and Natural Resources of the Senate; and
- (ii)** the Committee on Natural Resources of the House of Representatives.

(B) Force of law

The map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the map and legal description.

(C) Public availability

The map and legal description filed under subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(4) Administration

(A) In general

The Secretary shall—

- (i)** administer the Management Unit—
 - (I)** in accordance with the laws (including regulations) and rules applicable to units of the National Forest System; and
 - (II)** consistent with the purposes described in paragraph (2); and
- (ii)** only allow uses of the Management Unit that are consistent with the purposes described in paragraph (2).

(B) Fuel reduction in proximity to improvements and primary public roads

To protect the water quality, water quantity, and scenic, cultural, natural, and wildlife values of the Management Unit, the Secretary may conduct fuel reduction and forest health management

treatments to maintain and restore fire-resilient forest structures containing late successional forest structure characterized by large trees and multistoried canopies, as ecologically appropriate, on National Forest System land in the Management Unit—

- (i) in any area located not more than 400 feet from structures located on—
 - (I) National Forest System land; or
 - (II) private land adjacent to National Forest System land;
- (ii) in any area located not more than 400 feet from the Cooper Spur Road, the Cloud Cap Road, or the Cooper Spur Ski Area Loop Road; and
- (iii) on any other National Forest System land in the Management Unit, with priority given to activities that restore previously harvested stands, including the removal of logging slash, smaller diameter material, and ladder fuels.

(5) Prohibited activities

Subject to valid existing rights, the following activities shall be prohibited on National Forest System land in the Management Unit:

- (A) New road construction or renovation of existing non-System roads, except as necessary to protect public health and safety.
- (B) Projects undertaken for the purpose of harvesting commercial timber (other than activities relating to the harvest of merchantable products that are byproducts of activities conducted to further the purposes described in paragraph (2)).
- (C) Commercial livestock grazing.
- (D) The placement of new fuel storage tanks.
- (E) Except to the extent necessary to further the purposes described in paragraph (2), the application of any toxic chemicals (other than fire retardants), including pesticides, rodenticides, or herbicides.

(6) Forest road closures

(A) In general

Except as provided in subparagraph (B), the Secretary may provide for the closure or gating to the general public of any Forest Service road within the Management Unit.

(B) Exception

Nothing in this section requires the Secretary to close the road commonly known as “Cloud Cap Road”, which shall be administered in accordance with otherwise applicable law.

(7) Private land

(A) Effect

Nothing in this section affects the use of, or access to, any private property within the area identified on the map as the “Crystal Springs Zone of Contribution” by—

- (i) the owners of the private property; and
- (ii) guests to the private property.

(B) Cooperation

The Secretary is encouraged to work with private landowners who have agreed to cooperate with the Secretary to further the purposes of this section.

(8) Acquisition of land

(A) In general

The Secretary may acquire from willing landowners any land located within the area identified on the map as the “Crystal Springs Zone of Contribution”.

(B) Inclusion in Management Unit

On the date of acquisition, any land acquired under subparagraph (A) shall be incorporated in, and be managed as part of, the Management Unit.

Footnotes

¹ See References in Text note below.

(Pub. L. 111–11, title I, § 1205(a), Mar. 30, 2009, 123 Stat. 1014.)

References in Text

Section 1206 (a)(2), referred to in par. (1)(A), is section 1206(a)(2) of Pub. L. 111–11, title I, Mar. 30, 2009, 123 Stat. 1018, which is not classified to the Code.

Section 1202, referred to in par. (1)(B), is section 1202 of Pub. L. 111–11, which enacted provisions listed in a table of National Memorials set out under section 431 of this title and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

This subtitle, referred to in par. (3)(B), is subtitle C (§§ 1201–1207) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1007, which enacted this section and subchapter CXXXII of chapter 1 of this title, amended sections 544k and 1274 of this title, enacted provisions set out as notes under sections 460uuu and 1274 of this title, enacted provisions listed in a table of National Memorials set out under section 431 of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle C to the Code, see Tables.

Definitions

For definitions of terms used in this section, see section 1201 of Pub. L. 111–11, set out as a note under section 460uuu of this title.

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§ 539o. Ancient Bristlecone Pine Forest

(a) Designation

To conserve and protect the Ancient Bristlecone Pines by maintaining near-natural conditions and to ensure the survival of the Pines for the purposes of public enjoyment and scientific study, the approximately 31,700 acres of public land in the State, as generally depicted on the map entitled “Ancient Bristlecone Pine Forest—Proposed” and dated July 16, 2008, is designated as the “Ancient Bristlecone Pine Forest”.

(b) Map and legal description

(1) In general

As soon as practicable, but not later than 3 years after March 30, 2009, the Secretary shall file a map and legal description of the Forest with—

- (A)** the Committee on Natural Resources of the House of Representatives; and
- (B)** the Committee on Energy and Natural Resources of the Senate.

(2) Force of law

The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any errors in the map and legal description.

(3) Public availability

The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(c) Management

(1) In general

The Secretary shall administer the Forest—

- (A) in a manner that—
- (i) protect¹ the resources and values of the area in accordance with the purposes for which the Forest is established, as described in subsection (a); and
 - (ii) promotes the objectives of the applicable management plan (as in effect on March 30, 2009), including objectives relating to—
 - (I) the protection of bristlecone pines for public enjoyment and scientific study;
 - (II) the recognition of the botanical, scenic, and historical values of the area; and
 - (III) the maintenance of near-natural conditions by ensuring that all activities are subordinate to the needs of protecting and preserving bristlecone pines and wood remnants; and
- (B) in accordance with the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), this section, and any other applicable laws.

(2) **Uses**

(A) **In general**

The Secretary shall allow only such uses of the Forest as the Secretary determines would further the purposes for which the Forest is established, as described in subsection (a).

(B) **Scientific research**

Scientific research shall be allowed in the Forest in accordance with the Inyo National Forest Land and Resource Management Plan (as in effect on March 30, 2009).

(3) **Withdrawal**

Subject to valid existing rights, all Federal land within the Forest is withdrawn from—

- (A) all forms of entry, appropriation or disposal under the public land laws;
- (B) location, entry, and patent under the mining laws; and
- (C) disposition under all laws relating to mineral and geothermal leasing or mineral materials.

Footnotes

¹ So in original. Probably should be “protects”.

(Pub. L. 111–11, title I, § 1808, Mar. 30, 2009, 123 Stat. 1060.)

References in Text

This subtitle, referred to in subsec. (b)(2), is subtitle K (§§ 1801–1808) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1052, which enacted this section and subchapter CXXXIII of chapter 1 of this title, amended section 1274 of this title, enacted provisions set out as notes under sections 460vvv and 1274 of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle K to the Code, see Tables.

The National Forest Management Act of 1976, referred to in subsec. (c)(1)(B), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

Definitions

For definitions of terms used in this section, see section 1801 of Pub. L. 111–11, set out as a note under section 460vvv of this title.

SUBCHAPTER II—SCENIC AREAS

.....

§ 541. Cascade Head Scenic-Research Area; establishment

In order to provide present and future generations with the use and enjoyment of certain ocean headlands, rivers, streams, estuaries, and forested areas, to insure the protection and encourage the study of significant areas for research and scientific purposes, and to promote a more sensitive relationship between man and his adjacent environment, there is hereby established, subject to valid existing rights, the Cascade Head Scenic-Research Area (hereinafter referred to as “the Area”) in the Siuslaw National Forest in the State of Oregon.

(Pub. L. 93–535, § 1, Dec. 22, 1974, 88 Stat. 1732.)

.....

§ 541a. Administration, protection, development, and regulation of use

The administration, protection, development, and regulation of use of the Area shall be by the Secretary of Agriculture (hereinafter referred to as the “Secretary”) in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute to attainment of the purpose of this subchapter.

(Pub. L. 93–535, § 2, Dec. 22, 1974, 88 Stat. 1732.)

.....

§ 541b. Boundaries of scenic-research area; adjustments to subarea boundaries; development of management plan; establishment of subareas; management objectives

(a) Boundaries; adjustments to boundaries of subareas

The boundaries of the Area, and the boundaries of the subareas included therein, shall be those shown on the map entitled “Proposed Cascade Head Scenic-Research Area”, dated June 1974, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture: Provided, That, from time to time, the Secretary may, after public hearing or other appropriate means for public participation, make adjustments in the boundaries of subareas to reflect changing natural conditions or to provide for more effective management of the Area and each of the subareas in accordance with the purposes and provisions of this subchapter.

(b) Management plan; development; time; contents

As soon as practicable after December 22, 1974, the Secretary shall, with provisions for appropriate public participation in the planning process, develop a comprehensive management plan for the Area. Said plan shall prescribe specific management objectives and management controls necessary for the protection, management, and development of the Area and each of the subareas established pursuant to subsection (c) of this section.

(c) Subareas; establishment; management objectives

Within the Area, the following subareas shall be established and shall be managed in accord with the following primary management objectives which shall be supplemental to the general management objectives applicable to the entire Area:

- (1) Estuary and Associated Wetlands Sub-area: An area managed to protect and perpetuate the fish and wildlife, scenic, and research-education values, while allowing dispersed recreation use, such as sport fishing, nonmotorized pleasure boating, waterfowl hunting, and other uses which the Secretary determines are compatible with the protection and perpetuation of the unique natural values of the subarea. After appropriate study, breaching of existing dikes may be permitted within the subarea.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

(2) Lower Slope-Dispersed Residential Subarea: An area managed to maintain the scenic, soil and watershed, and fish and wildlife values, while allowing dispersed residential occupancy, selective recreation use, and agricultural use.

(3) Upper Timbered Slope and Headlands Subareas: Areas managed to protect the scenic, soil and watershed, and fish and wildlife values while allowing selective recreation and extensive research-educational activities. Timber harvesting activity may occur in these subareas only when the Secretary determines that such harvesting is to be conducted in connection with research activities or that the preservation of the timber resource is imminently threatened by fire, old age, infestation, or similar natural occurrences.

(4) Coastline and Sand Dune-Spit Subareas: Areas managed to protect and maintain the scenic and wildlife values while allowing selective recreation and extensive research-educational activities.

(Pub. L. 93-535, § 3, Dec. 22, 1974, 88 Stat. 1732.)

.....

§ 541c. Extension of boundaries of Siuslaw National Forest; transfer of Federal property to Secretary

(a) The boundaries of the Siuslaw National Forest are hereby extended to include all of the lands lying within the Area as described in accordance with section 541b of this title which are not within the national forest boundaries on December 22, 1974.

(b) Notwithstanding any other provision of law, any Federal property located on the lands added to the Siuslaw National Forest by this section may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary. Any lands so transferred shall become part of the Siuslaw National Forest.

(Pub. L. 93-535, § 4, Dec. 22, 1974, 88 Stat. 1733.)

.....

§ 541d. Acquisition of property within the scenic-research area; consent of owner; substantial change in use or maintenance of property

(a) Acquisition of lands, waters and interests by donation, purchase, etc.

Subject to the provisions of subsection (b) of this section, the Secretary is authorized to acquire lands, waters, or interests therein within the Area by donation, purchase, exchange, or otherwise.

(b) Consent of owner for acquisition of lands in sub-areas; exceptions; guidelines for determination of substantial change in land use or maintenance

Within all subareas of the Area except the estuary and associated wetlands subarea, the Secretary may not acquire any land or interest in land without the consent of the owner or owners so long as the owner or owners use such land for substantially the same purposes and in the same manner as it was used and maintained on June 1, 1974: Provided, however, That the Secretary may acquire any land or interest in land without the consent of the owner or owners when such land is in imminent danger of being used for different purposes or in a different manner from the use or uses existing on June 1, 1974. The Secretary shall publish, within one hundred and eighty days of December 22, 1974, guidelines which shall be used by him to determine what constitutes a substantial change in land use or maintenance for the non-federally-owned lands within the Area. Within the estuary and associated wetlands subarea the Secretary may acquire any land or interest in land without the consent of the owner or owners at any time, after public hearing.

(c) Substantial change in land use or maintenance; notice by owner; time; manner

At least thirty days prior to any substantial change in the use or maintenance of any non-federally-owned land within the Area, the owner or owners of such land shall provide notice of such proposed change to the Secretary or his designee, in accordance with such guidelines as the Secretary may establish.

(Pub. L. 93–535, § 5, Dec. 22, 1974, 88 Stat. 1733.)

.....

§ 541e. Availability of funds for acquisition of lands, etc., within added area

Notwithstanding the provisions of section 4601–9 (a)(1) of this title, moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of any lands, waters, or interests therein within the area added to the Siuslaw National Forest by this subchapter.

(Pub. L. 93–535, § 6, Dec. 22, 1974, 88 Stat. 1733.)

References in Text

The Land and Water Conservation Fund, referred to in text, was established by section 4601–5 of this title.

.....

§ 541f. Withdrawal from location, entry and patent under mining laws; withdrawal from disposition under mineral leasing laws

The lands within the Area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(Pub. L. 93–535, § 7, Dec. 22, 1974, 88 Stat. 1733.)

References in Text

The United States mining laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

.....

§ 541g. Advisory council for scenic-research area; membership; designation of chairman; compensation; consultation by Secretary

(a) Advisory council; establishment; consultation; members; term; appointment

The Secretary, pursuant to the Federal Advisory Committee Act, shall establish an advisory council for the Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management of the Area. The members of the advisory council, who shall not exceed eleven in number, shall serve for the individual staggered terms of three years each and shall be appointed by the Secretary as follows—

- (1) a member to represent each county in which a portion of the Area is located, each such appointee to be designated by the respective governing body of the county involved;
- (2) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon; and
- (3) not to exceed eight members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the Area.

(b) Chairman; vacancies

The Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(c) Compensation; reimbursement for expenses

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

The members shall not receive any compensation for their services as members of the advisory council, but they shall be reimbursed for travel expenses and shall be allowed, as appropriate, per diem or actual subsistence expenses.

(d) Consultation by Secretary with private groups, etc.; cooperation with other Federal, State, etc., agencies and organizations

In addition to his consultation with the advisory council, the Secretary shall seek the views of other private groups, individuals, and the public, and shall seek the views and assistance of, and cooperate with all other Federal, State, and local agencies with responsibilities for zoning, planning, migratory fish, waterfowl, and marine animals, water, and natural resources, and all nonprofit agencies and organizations which may contribute information or expertise about the resources, and the management, of the Area, in order that the knowledge, expertise and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Area and its various subareas for the benefit of the public.

(Pub. L. 93-535, § 8, Dec. 22, 1974, 88 Stat. 1733.)

References in Text

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

Termination of Advisory Councils

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

.....

§ 541h. Cooperation with State of Oregon in administration and protection of lands; civil and criminal jurisdiction; power of taxation

The Secretary shall cooperate with the State of Oregon and political subdivisions thereof in the administration of the Area and in the administration and protection of lands within and adjacent to the Area owned or controlled by the State or political subdivisions thereof. Nothing in this subchapter shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the Area consistent with the provisions of this subchapter, or of its right to tax persons, corporations, franchises or other non-Federal property, in or on the lands or waters within the Area.

(Pub. L. 93-535, § 9, Dec. 22, 1974, 88 Stat. 1734.)

.....

§ 542. Langmuir Research Site; establishment

That in order to encourage scientific research into atmospheric processes and astronomical phenomena, and to preserve conditions necessary for that research, there is hereby established the Langmuir Research Site (hereinafter referred to as the “research site”) in the Cibola National Forest in the State of New Mexico.

(Pub. L. 96-550, title II, § 201, Dec. 19, 1980, 94 Stat. 3225.)

.....

§ 542a. Congressional findings

The Congress finds that the high altitude and freedom from air pollution and night luminosity caused by human activity, make the research site uniquely suited to the conduct of research probes into thunder clouds and for other atmospheric and astronomical research purposes.

(Pub. L. 96–550, title II, § 202, Dec. 19, 1980, 94 Stat. 3225.)

.....

§ 542b. Administration, protection, and regulation of use

The Secretary of Agriculture shall administer, protect, and regulate use of the research site in accordance with the laws, rules, and regulations applicable to National Forest System lands, and in such manner as will best contribute to purposes of this Act.

(Pub. L. 96–550, title II, § 203, Dec. 19, 1980, 94 Stat. 3225.)

References in Text

This Act, referred to in text, is Pub. L. 96–550, Dec. 19, 1980, 94 Stat. 3221, which enacted sections 410ii to 410ii–7 and 542 to 542d of this title and enacted provisions set out as notes under sections 431 and 1132 of this title. For complete classification of this Act to the Code, see Tables.

.....

§ 542c. Land use agreement

The Secretary of Agriculture in furtherance of the purposes of this Act, is hereby authorized, and directed, to enter into an appropriate land use agreement with New Mexico Institute of Mining and Technology for the Langmuir Research Site for the purpose of establishing conditions for use of the national forest land, and to set forth working relationships during such period of use.

(Pub. L. 96–550, title II, § 204, Dec. 19, 1980, 94 Stat. 3225.)

References in Text

This Act, referred to in text, is Pub. L. 96–550, Dec. 19, 1980, 94 Stat. 3221, which enacted sections 410ii to 410ii–7 and 542 to 542d of this title and enacted provisions set out as notes under sections 431 and 1132 of this title. For complete classification of this Act to the Code, see Tables.

.....

§ 542d. Comprehensive management plan

(a) Boundaries

The research site shall consist of approximately thirty-one thousand acres, including a principle¹ research facility of approximately one thousand acres. The boundaries are depicted on a map entitled “Langmuir Research Site”, dated August 1980, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture.

(b) Development of plan

As soon as practicable, after December 19, 1980, the Secretary of Agriculture shall develop a comprehensive management plan for the research site consistent with requirements of the National Forest Management Act of 1976 (Public Law 94–588) (16 U.S.C. 1604), which shall be incorporated into the initial Cibola National Forest land and resource management plan as provided for under that Act.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

(c) Adjustment in boundaries

Following timely notice in writing to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor adjustments in the boundaries of the research site to provide for more effective management or to encourage further research activity. For the purposes of this subsection, minor boundary adjustments shall not increase or decrease the amount of land within the research site by more than seven thousand acres.

(d) Consultation with other public interest groups

In developing the plan, the Secretary shall consult with the National Science Foundation, the New Mexico Institute of Mining and Technology, the New Mexico Academy of Science and appropriate conservation, wilderness, wildlife, industry, and other public interest groups.

(e) Objectives of plan

The plan shall prescribe specific research and management objectives necessary for the protection, management, and regulation of the research site as outlined in subsection (f) of this section.

(f) Management of site in accordance with the objectives

The research site shall be managed in accordance with the following objectives:

- (1) The principal research facility shall be managed primarily for scientific research purposes. Dispersed recreation, grazing, and other uses which the Secretary determines to be compatible with scientific research may be permitted.
- (2) The research site shall be managed to enhance scientific research objectives. Scientific research activities and associated research equipment and structures shall be permitted within the research site in accordance with the plan.
- (3) Roads shall be limited to those necessary for scientific research activities and other reasonable activities as determined by the Secretary. Motor vehicle use shall be restricted to roads designated in the plan.
- (4) The landing of small instrumented research rockets shall be permitted to continue in portions of the research site designated for such purposes in the plan.

Footnotes

¹ So in original. Probably should be “principal”.

(Pub. L. 96–550, title II, § 205, Dec. 19, 1980, 94 Stat. 3225; Pub. L. 103–437, § 6(d)(32), Nov. 2, 1994, 108 Stat. 4584.)

References in Text

The National Forest Management Act of 1976, referred to in subsec. (b), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

Amendments

1994—Subsec. (c). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

.....

§ 543. Mono Basin National Forest Scenic Area; establishment

The area in the Mono Basin within and adjacent to the Inyo National Forest in the State of California, as generally depicted on a map entitled “Mono Basin National Forest Scenic Area”

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

dated June 1983, and numbered 1983–3, is hereby designated as the Mono Basin National Forest Scenic Area (hereafter in sections 543 to 543h of this title referred to as the “Scenic Area”). Such map shall be on file and available for public inspection in the office of the Forest Supervisor, Inyo National Forest and in the office of the Chief of the Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter in sections 543 to 543h of this title referred to as the “Secretary”) may make minor revisions in the boundary of the Scenic Area after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such notice shall be published and submitted at least sixty days before the revision is made.

(Pub. L. 98–425, title III, § 301, Sept. 28, 1984, 98 Stat. 1632; Pub. L. 103–437, § 6(d)(33), Nov. 2, 1994, 108 Stat. 4584.)

Amendments

1994—Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

.....

§ 543a. Extension of National Forest boundary

(a) The exterior boundary of the Inyo National Forest is hereby extended to include the area within the boundary of the Scenic Area. Any lands and interests therein acquired pursuant to section 543b of this title shall become part of the National Forest System.

(b) For the purposes of section 4601–9 (a)(1) of this title, the boundary of the Inyo National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1964.

(Pub. L. 98–425, title III, § 302, Sept. 28, 1984, 98 Stat. 1633.)

.....

§ 543b. Acquisition of lands

(a) Authority of Secretary; exceptions

The Secretary is authorized to acquire all lands and interests therein within the boundary of the Scenic Area by donation, exchange in accordance with sections 543 to 543h of this title or other provisions of law, or purchase with donated or appropriated funds, except that—

(1) any lands or interests therein within the boundary of the Scenic Area which are owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only by donation or exchange; and

(2) lands or interests therein within the boundary of the Scenic Area which are not owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the Scenic Area or which is otherwise incompatible with the purposes of sections 543 to 543h of this title.

(b) Guidelines; detrimental or incompatible use

(1) Not later than six months after September 28, 1984, the Secretary shall publish specific guidelines under which determinations shall be made under paragraph (2) of subsection (a) of this section. No use which existed prior to June 1, 1984, within the area included in the Scenic Area shall be treated under such guidelines as a detrimental or incompatible use within the meaning of such paragraph (2).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(2) For purposes of subsection (a)(2) of this section, any development or proposed development of private property within the boundary of the Scenic Area that is significantly different from, or a significant expansion of, development existing as of June 1, 1984, shall be considered by the Secretary as detrimental to the integrity of the Scenic Area. No reconstruction or expansion of a private or commercial building, including—

- (A) reconstruction of an existing building,
- (B) construction of attached structural additions, not to exceed 100 per centum of the square footage of the original building, and
- (C) construction of reasonable support development such as roads, parking, water and sewage systems shall be treated as detrimental to the integrity of the Scenic Area or as an incompatible development within the meaning of paragraph (2) of subsection (a) of this section.

(c) Preparation of environmental assessments

Notwithstanding any other provision of law, the Secretary shall only be required to prepare an environmental assessment of any exchange of mineral or geothermal interest authorized by sections 543 to 543h of this title.

(Pub. L. 98-425, title III, § 303, Sept. 28, 1984, 98 Stat. 1633.)

.....

§ 543c. Administration

(a) Scenic Area and other lands to be administered as part of Inyo National Forest

(1) Except as otherwise provided in sections 543 to 543h of this title, the Secretary, acting through the Chief of the Forest Service, shall administer the Scenic Area as a separate unit within the boundary of the Inyo National Forest in accordance with the laws, rules, and regulations applicable to the National Forest System. All Bureau of Land Management administered lands that fall within the boundaries of the Scenic Area are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(2) In addition, the following parcels administered by the Bureau of Land Management are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System:

- township 1 south; range 26 east; Mount Diablo Meridian:
- east half of southwest quarter and south half of southeast quarter of section 10; and
- township 1 north; range 26 east; Mount Diablo Meridian:
- southwest quarter of northeast quarter and west half of southeast quarter of section 9;
- southwest quarter of southwest quarter of section 15;
- southwest quarter of northwest quarter and northwest quarter of southwest quarter of section 25;
- north half of southeast quarter of section 26, west half of northwest quarter and northwest quarter of southwest quarter of section 27;
- township 1 north; range 27 east; Mount Diablo Meridian:
- east half of southeast quarter of section 34;
- southwest quarter of northwest quarter of section 35; and
- west half of section 30 as intersected by Scenic Area Boundary.

(b) Water rights; protection of geologic, ecologic and cultural resources; recreational use of Scenic Area; related facilities and programs; scientific study and research; commercial timber harvesting

(1) In a manner consistent with the protection of the water rights of the State of California or any political subdivision thereof (including the city of Los Angeles) or of any person to the extent that such water rights have been granted or modified under the laws of the State of California, the Secretary shall manage the Scenic Area to protect its geologic, ecologic, and cultural resources. The Secretary shall provide for recreational use of the Scenic Area and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of sections 543 to 543h of this title, and may assist adjacent affected local governmental agencies in the development of related interpretive programs. The Secretary shall permit the full use of the Scenic Area for scientific study and research in accordance with such rules and regulations as he may prescribe.

(2) Except as specifically provided in this subsection, no commercial timber harvesting shall be permitted in the Scenic Area, but the Secretary shall permit the utilization of wood material such as firewood, posts, poles, and Christmas trees by individuals for their domestic purposes under such regulations as he may prescribe to protect the natural and cultural resources of the Scenic Area. The Secretary may take action including the use of commercial timber harvest to the minimum extent necessary to control fires, insects and diseases that might—

(A) endanger irreplaceable features within the Scenic Area, or

(B) cause substantial damage to significant resources adjacent to the Scenic Area.

(c) Grazing permits

The Secretary shall permit those persons holding currently valid grazing permits within the boundary of the Scenic Area to continue to exercise such permits consistent with other applicable law.

(d) Cooperative agreements

The Secretary may enter into cooperative agreements with the State of California and any political subdivision thereof (including the city of Los Angeles) for purposes of protecting Scenic Area resources and administering areas owned by the State or by any such political subdivision which are within the Scenic Area.

(e) Management plan

Within three years after September 28, 1984, the Secretary shall submit to the committees referred to in section 543 of this title, a detailed and comprehensive management plan for the Scenic Area which is consistent with the protection of water rights as provided in subsection (b)(1) of this section. The plan shall include but not be limited to—

(1) an inventory of natural (including geologic) and cultural resources;

(2) general development plans for public use facilities, including cost estimates; and

(3) measures for the preservation of the natural and cultural resources of the Scenic Area in accordance with subsections (a) and (b) of this section.

Such plan shall provide for hunting and fishing (including commercial brine shrimp operations authorized under State law) within the Scenic Area in accordance with applicable Federal and State law, except to the extent otherwise necessary for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment.

(f) Visitor center

The Secretary is authorized to construct a visitor center in the Scenic Area for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the natural and cultural resources of the Scenic Area.

(g) Withdrawal of lands from operation of other Federal laws; regulation of mining claims

(1) Subject to valid existing rights, federally owned lands and interests therein within the Scenic Area are withdrawn from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], and from disposition under the public land laws.

(2) Subject to valid existing rights, all mining claims located within the Scenic Area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area, and any patent which may be issued after September 28, 1984, shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.

(h) Water rights

Nothing in sections 543 to 543h of this title shall be construed to reserve any water for purposes of the Scenic Area or to affirm, deny, or otherwise affect the present (or prospective) water rights of any person or of the State of California or of any political subdivision thereof (including the city of Los Angeles), nor shall any provision of sections 543 to 543h of this title be construed to cause, authorize, or allow any interference with or infringement of such water rights so long as, and to the extent that, those rights remain valid and enforceable under the laws of the State of California.

(i) Rights-of-way of city of Los Angeles

(1) The Act entitled “An Act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the city of Los Angeles in Mono County in the State of California”, approved June 23, 1936 (49 Stat. 1892), is hereby repealed.

(2) The Secretary and the Secretary of the Interior shall grant and convey rights-of-way easements, at no cost, to the city of Los Angeles for those rights-of-way on public lands and national forest lands in Mono County, California, as described and set forth in maps and accompanying descriptions which were—

(A) filed by the city of Los Angeles with the Secretary of the Interior on October 24, 1944, and

(B) accepted as proof of construction on behalf of the United States by the Commissioner of the General Land Office on January 4, 1945.

Such easement conveyances shall provide for the right of the city to continue its present operations and to maintain, reconstruct, and replace all existing water and power facilities located within the bounds of the area described in the maps and descriptions referred to in the preceding sentence. The United States shall reserve in the conveyance easements all rights to use and permit the use by others of the lands so conveyed to the extent that such use does not unreasonably interfere with the rights granted herein to the city of Los Angeles.

(3) The grant in paragraph (2) of this subsection shall become effective upon relinquishment in writing by the city of Los Angeles of its applications dated October 20, 1944, and January 17, 1945, to purchase twenty-three thousand eight hundred and fifty acres of Federal land.

(4) The easements granted under paragraph (2) of this subsection shall provide that whenever the city of Los Angeles ceases to use the land or any part thereof subject to such easements for the purposes for which it is currently being used, as of September 28, 1984, all interests in such land or part thereof shall revert to the United States.

(j) Existing community recreational uses

Existing community recreational uses, as of September 28, 1984, shall be permitted at the levels and locations customarily exercised.

(Pub. L. 98–425, title III, § 304, Sept. 28, 1984, 98 Stat. 1634.)

References in Text

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (g)(1), are classified generally to Title 30, Mineral Lands and Mining.

The Geothermal Steam Act of 1970, referred to in subsec. (g)(1), is Pub. L. 91-581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§ 1001 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

The public land laws, referred to in subsec. (g)(1), are classified generally to Title 43, Public Lands.

The Act entitled "An Act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the city of Los Angeles in Mono County in the State of California", referred to in subsec. (i)(1), is act June 23, 1936, ch. 733, 49 Stat. 1892, which was not classified to the Code.

.....

§ 543d. Ecological studies; reports to Congressional committees and to Chief of Forest Service; progress reports

The Secretary shall take such steps as may be necessary to, within one hundred and eighty days of September 28, 1984, enter into a contract with the National Academy of Sciences for the purpose of conducting a scientific study of the ecology of the Scenic Area. The study shall provide for consultation with knowledgeable local, State, Federal, and private persons and organizations and shall provide findings and recommendations to the Congress. Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Chief of the Forest Service not later than January 1, 1987. Progress reports regarding the study shall be transmitted to the above committees on January 1, 1985, and January 1 of each year thereafter.

(Pub. L. 98-425, title III, § 305, Sept. 28, 1984, 98 Stat. 1636.)

Change of Name

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

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§ 543e. Scenic Area Advisory Board

(a) Establishment; consultations with Secretary

There is hereby established the Scenic Area Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to—

- (1) the administration of the Scenic Area with respect to policies, programs, and activities in accordance with sections 543 to 543h of this title;
- (2) the preparation and implementation of the comprehensive management plan; and
- (3) the location of the visitor center authorized by section 543c (f) of this title.

(b) Composition and selection

The Board shall be composed of nine members, who shall be selected as follows:

- (1) five members appointed by the Mono County Board of Supervisors;

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

- (2) two members appointed by the Governor of California (one of whom shall be an employee of the California Division of Parks and Recreation);
- (3) one member appointed by the mayor of the city of Los Angeles; and
- (4) one member appointed by the Secretary (who shall be an employee of the Forest Service).

(c) Terms of appointment

Each member of the Board shall be appointed to serve for a term of three years except that the initial appointments shall be for terms as follows:

- (1) of those members appointed by the Mono County Board of Supervisors one shall be appointed to serve for a term of one year, two shall be for a term of two years, and two shall be for a term of three years;
- (2) of those members appointed by the Governor of California one shall be appointed to serve for a term of one year and one shall be appointed to serve for a term of three years;
- (3) the member appointed by the mayor of the city of Los Angeles shall be appointed to serve for a term of two years; and
- (4) the member appointed by the Secretary shall be appointed to serve for a term of three years.

(d) Initial appointment; Chairman

The members of the Board shall be appointed within ninety days of September 28, 1984. The members of the Board shall, at their first meeting, elect a Chairman.

(e) Annual meetings and consultations with Secretary or designee

The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the administration of the scenic area.¹

(f) Compensation; expenses

Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their duties under sections 543 to 543h of this title.

(g) Vacancies

Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) Quorum

A majority of those members appointed shall constitute a quorum for the conduct of all business of the Board.

(i) Termination

The Board shall terminate ten years from the date of its first meeting.

Footnotes

¹ So in original. Probably should be capitalized.

(Pub. L. 98-425, title III, § 306, Sept. 28, 1984, 98 Stat. 1637.)

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§ 543f. Traditional Native American uses

In recognition of the past use of the Scenic Area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to Scenic Area lands by Indian people for such traditional cultural and religious purposes, including the harvest of the brine fly larvae. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (92 Stat. 469) [42 U.S.C. 1996, 1996a]. As a part of

the plan prepared pursuant to section 543c (c) of this title, the Secretary shall, in consultation with appropriate Indian tribes, define the past cultural and religious uses of the Scenic Area by Indians.

(Pub. L. 98–425, title III, § 307, Sept. 28, 1984, 98 Stat. 1638.)

References in Text

The American Indian Religious Freedom Act, referred to in text, is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

.....

§ 543g. Authorization of appropriations

In addition to other amounts available for such purposes, effective October 1, 1985, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 543 to 543h of this title.

(Pub. L. 98–425, title III, § 308, Sept. 28, 1984, 98 Stat. 1638.)

.....

§ 543h. New spending authority

Any new spending authority described in subsection (c)(2)(A) or (B) of section 651¹ of title 2 which is provided under sections 543 to 543h of this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Footnotes

¹ See References in Text note below.

(Pub. L. 98–425, title III, § 309, Sept. 28, 1984, 98 Stat. 1638.)

References in Text

Section 651 of title 2, referred to in text, was amended by Pub. L. 105–33, title X, § 10116(a)(3), (5), Aug. 5, 1997, 111 Stat. 691, by striking out subsec. (c) and redesignating former subsec. (d) as (c).

.....

§ 544. Columbia River Gorge National Scenic Area; definitions

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;

TITLE 16 - Section 544 - Columbia River Gorge National Scenic Area; definitions

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscode.html>).

- (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 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;

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

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

References in Text

Federal Endangered Species Acts, referred to in subsec. (l)(3), are classified principally to chapter 35 (§ 1531 et seq.) of this title.

Amendments

1994—Subsec. (g). Pub. L. 103–435 substituted “Yakama Indian Nation” for “Yakima Indian Nation”.

Short Title

Section 1 of Pub. L. 99–663 provided that: “This Act [enacting this section and sections 544a to 544p of this title and amending sections 1274 and 1276 of this title] may be referred to as the ‘Columbia River Gorge National Scenic Area Act’.”

.....

§ 544a. 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, § 3, Nov. 17, 1986, 100 Stat. 4276.)

.....

§ 544b. 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, Willamete¹ 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) 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;

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- (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.

Footnotes

¹ So in original. Probably should be “Willamette”.

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

References in Text

The Second Supplemental Appropriations Act, 1984, referred to in subsec. (a)(2)(B)(i), is Pub. L. 98–396, Aug. 22, 1984, 98 Stat. 1369. For complete classification of this Act to the Code, see Tables.

Amendments

2000—Subsec. (b)(2). Pub. L. 106–291, § 346(d)(1), substituted “by paragraph (1)” for “in this section” in introductory provisions.

Subsec. (b)(3). Pub. L. 106–291, § 346(d)(2), which directed amendment of subsec. (b)(2) by adding at the end a par. (3), was executed by adding par. (3) after subsec. (b)(2), to reflect the probable intent of Congress.

1999—Subsec. (a)(2). Pub. L. 106–31 made technical correction to directory language of Pub. L. 105–277. See 1998 Amendment note below.

1998—Subsec. (a)(2). Pub. L. 105–277, as amended by Pub. L. 106–31, inserted par. (2) heading, designated existing provisions as subpar. (A), inserted heading, and substituted “Except as provided in subparagraph (B), the boundaries” for “The boundaries”, and added subpar. (B).

1994—Subsec. (c). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committees on Agriculture and”.

Effective Date of 1999 Amendment

Pub. L. 106–31, title V, § 5004(4), May 21, 1999, 113 Stat. 110, provided that: “The amendments made by paragraphs (1), (2), and (3) of this section [amending this section and section 1374 of this title], shall take effect as if included in Public Law 105–277 on the date of its enactment [Oct. 21, 1998].”

Congressional Intent of 1998 Amendment

Pub. L. 105–277, div. A, § 101(e) [title III, § 354(b)], Oct. 21, 1998, 112 Stat. 2681–231, 2681–303, provided that: “The amendment made by subsection (a) [amending this section]—

“(1) is intended to achieve the intent of Congress set forth in Public Law 98–396 [see Tables for classification]; and

“(2) is not intended to set a precedent regarding adjustment or amendment of any boundaries of the Columbia River Gorge National Scenic Area or any other provisions of the Columbia River Gorge National Scenic Area Act [see Short Title note set out under section 544 of this title].”

.....

§ 544c. 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, § 5, Nov. 17, 1986, 100 Stat. 4277.)

.....

§ 544d. 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) designate those lands used or suitable for the production of crops, fruits or other 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, § 6, Nov. 17, 1986, 100 Stat. 4279.)

.....

§ 544e. 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, § 7, Nov. 17, 1986, 100 Stat. 4282.)

.....

§ 544f. Administration of special management areas

(a) Administration of Federal lands

(1) ¹ 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) ² 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 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) ³ 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, 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

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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.

Footnotes

¹ So in original. No par. (2) has been enacted.

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

³ So in original. No subsec. (g) has been enacted.

(Pub. L. 99-663, § 8, Nov. 17, 1986, 100 Stat. 4283; Pub. L. 106-291, title III, § 346(b), Oct. 11, 2000, 114 Stat. 999.)

References in Text

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

The mining laws of the United States and the laws pertaining to mineral leasing, referred to in subsec. (b), are classified generally to Title 30, Mineral Lands and Mining.

Laws pertaining to geothermal leasing, referred to in subsec. (b), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

Amendments

2000—Subsec. (o). Pub. L. 106-291 designated existing provisions as par. (1), inserted par. heading, substituted “section 544g (e) of this title.” for “the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 1973).” in first sentence, and added par. (2).

Administration, Operation, and Maintenance of Pierce National Wildlife Refuge and Little White Salmon National Fish Hatchery

Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 418, provided in part that: “Notwithstanding the provisions of Public Law 99-663 [enacting sections 544 to 544p of this title and amending sections 1274 and 1276 of this title], which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the National Wildlife Refuge System Administration Act [16 U.S.C. 668dd, 668ee], Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], and Fish and Wildlife Act of 1956 [16 U.S.C. 742a et seq.] by the U.S. Fish and Wildlife Service.”

.....

§ 544g. 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.

TITLE 16 - Section 544g - Land acquisition

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(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.		

National Area

Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E
Approx. 2,560 acres.		

TITLE 16 - Section 544g - Land acquisition

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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.		

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	4S	5E
Approx. 560 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.		

Zig-Zag Area

Section	Township	Range
22	2S	7E
29	2S	7E
Approx. 280 acres.		
1		
Total acreage: 29,743.		

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

References in Text

The public land laws, referred to in subsec. (d)(5), are classified generally to Title 43, Public Lands.

The United States mining law and the laws pertaining to mineral leasing, referred to in subsec. (d)(5), are classified generally to Title 30, Mineral Lands and Mining.

Laws pertaining to geothermal leasing, referred to in subsec. (d)(5), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

Amendments

2000—Subsecs. (e) to (g). Pub. L. 106–291 added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

1995—Subsec. (d)(3). Pub. L. 104–66 struck out provision at end requiring Secretary to report to Congress on status of negotiations with owners of non-Federal lands regarding land exchanges.

Publication of Notice

Pub. L. 106–291, title III, § 346(c), Oct. 11, 2000, 114 Stat. 1000, provided that:

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“(1) Not later than November 1, 2000, the Secretary of Agriculture shall provide notice of the provisions contained in the amendments made by subsections (a) and (b) [amending this section and section 544f of this title] through—

“(A) publication of a notice in the Federal Register and in newspapers of general circulation in the counties in the Columbia River Gorge National Scenic Area; and

“(B) posting of a notice in each facility of the United States Postal Service located in those counties.

“(2) If the counties wherein special management areas are located provide the Forest Service administrator of the Columbia River Gorge National Scenic Area lists of the names and addresses of landowners within the special management areas as of September 1, 2000, the Forest Service shall send to such names and addresses by certified first class mail notice of the provisions contained in the amendments made by subsections (a) and (b);

“(A) The mailing shall occur within twenty working days of the receipt of the list; and

“(B) The mailing shall constitute constructive notice to landowners, and proof of receipt by the addressee shall not be required.”

Conveyance of Lands Between Skamania County and the United States

Pub. L. 105–277, div. A, § 101(e) [title III, § 341], Oct. 21, 1998, 112 Stat. 2681–231, 2681–296, provided that:

“Upon the condition that Skamania County conveys title acceptable to the Secretary of Agriculture to all right, title and interest in lands identified on a map dated September 29, 1998 entitled ‘Skamania County Lands to be Transferred’, such lands being located on Table Mountain lying within the Columbia River Gorge National Scenic Area, there is hereby conveyed to Skamania County, notwithstanding any other provision of law, the Wind River Nursery Site lands and facilities and all interests therein, except for the corridor of the Pacific Crest National Scenic Trail, as depicted on a map dated September 29, 1998, entitled ‘Wind River Conveyance’, which is on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.

“The conveyance of lands to Skamania County shall become automatically effective upon a determination by the Secretary that Skamania County has conveyed acceptable title to the United States to the Skamania County lands. Lands conveyed to the United States shall become part of the Gifford Pinchot National Forest and shall have the status of lands acquired under the Act of March 1, 1911, (commonly called the Weeks Act) [see Short Title note set out under section 552 of this title] and shall be managed in accordance with the laws and regulations applicable to the National Forest System.”

Land Exchanges

Pub. L. 105–83, title III, § 336, Nov. 14, 1997, 111 Stat. 1602, provided that: “To facilitate priority land exchanges through which the United States will receive land within the White Salmon Wild and Scenic River boundaries and within the Columbia River Gorge National Scenic Area, the Secretary of Agriculture may, until September 30, 2000, accept title to such lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located, following existing exchange authorities.”

Wind River Nursery

Pub. L. 105–83, title III, § 340, Nov. 14, 1997, 111 Stat. 1603, provided that:

“(a) The Secretary of Agriculture is authorized and directed to negotiate with Skamania County for the exchange of lands or interests in lands constituting the Wind River Nursery Site within the Gifford Pinchot National Forest, Washington.

“(b) In return for the Nursery Site properties, Skamania County is authorized and directed to negotiate with the Forest Service the conveyance of approximately 120 acres of high biodiversity, special management lands located near Table Mountain within the Columbia River Gorge National Scenic Area, title to which must be acceptable to the Secretary of Agriculture.

“(c) Before this exchange can occur, it must be of equal value and the Secretary and the Skamania County Board of Commissioners must agree on the exact parcels of land to be included in the exchange. An agreement signed by the Secretary of Agriculture and the Skamania County Board of Commissioners describing the properties involved and a certification that the exchange is of equal value must be completed no later than September 30, 1999.

“(d) During this two-year negotiating period, the Wind River Nursery property shall not be conveyed to another party. The Forest Service shall maintain the site in a tenantable condition.

“(e) Except as provided herein, the exchange shall be for equal value in accordance with land exchange authorities applicable to the National Forest System.

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“(f) The Secretary is directed to equalize values by not only cash and exchange of lands, easements, reservations, and other interests in lands, but also by full value credit for such services as Skamania County provides to the Gifford Pinchot and Columbia River Gorge National Scenic Area and as the Secretary and Skamania County deem appropriate. The Secretary may accept services in lieu of cash when the Secretary can discern cash value for the services and when the Secretary determines such services would provide direct benefits to lands and resources and users of such lands and resources under the jurisdiction of the Secretary.

“(g) Any cash equalization which Skamania County elects to make may be made up to 50 percent of the fair market value of the Federal property, and such cash equalization may be made in installments over a period not to exceed 25 years. Payments received as partial consideration shall be deposited into the fund in the Treasury established under the Act of December 4, 1967 [16 U.S.C. 484a], commonly known as the Sisk Act, and shall be available for expenditure as provided in the Act except that the Secretary may not use those funds to purchase lands within Skamania County.

“(h) In defining the Federal estate to be conveyed, the Secretary may require such additional terms and conditions as deemed necessary in connection with assuring equal value and public interest considerations in this exchange including, but not limited to, continued research use of the Wind River Experimental Forest and protection of natural, cultural, and historic resources, existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail.

“(i) This authorization is predicated on Skamania County’s Board of Commissioners commitment to give foremost consideration to preservation of the overall integrity of the site and conservation of the educational and research potential of the site, including providing for access to and assurance of the continued administration and operation of forestry research on the adjacent Thornton Munger Research Natural Area.

“(j) The Secretary is further directed to cooperate with Skamania County to address applicable Federal and State environmental laws.

“(k) Notwithstanding the processes involved with the National Environmental Policy Act [of 1969, 42 U.S.C. 4321 et seq.] and the State Environmental Policy Act, should the Secretary of Agriculture and the Skamania County Board of Commissioners fail to reach an agreement on an equal value exchange defined under the terms of this legislation by September 30, 1999, the Wind River Nursery Site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.”

.....

§ 544h. Interim management

(a) Interim guidelines

(1) ¹ 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.

(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

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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.

Footnotes

¹ So in original. No par. (2) has been enacted.

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

Codification

November 17, 1986, referred to in subsec. (b)(1), was in the original “the effective date of this Act”, which was translated as being the date of enactment of Pub. L. 99-663.

.....

§ 544i. 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

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

(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, § 11, Nov. 17, 1986, 100 Stat. 4292.)

.....

§ 544j. 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, § 12, Nov. 17, 1986, 100 Stat. 4293.)

.....

§ 544k. 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 subsections ¹ (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;
- (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.];

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- (4) the Hood River, Oregon, 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).

Footnotes

¹ So in original. Probably should be “subsection”.

(Pub. L. 99–663, § 13(a), (b), Nov. 17, 1986, 100 Stat. 4293, 4294; Pub. L. 111–11, title I, § 1203(b), Mar. 30, 2009, 123 Stat. 1012.)

References in Text

Subsection (c) or (d) of this section, referred to in subsec. (a)(1), is subsec. (c) or (d) of section 13 of Pub. L. 99–663, Nov. 17, 1986, 100 Stat. 4294, which amended sections 1274 (a) and 1276 (a), respectively, of this title.

The National Forest Management Act of 1976, referred to in subsec. (a)(3)(A), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Wild and Scenic Rivers Act, referred to in subsec. (a)(3)(B), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§ 1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

Codification

Section 13 of Pub. L. 99–663, which enacted this section, consisted of subsecs. (a) to (d). Subsecs. (a) and (b) of section 13 were classified to this section, and subsecs. (c) and (d) of section 13 amended sections 1274 and 1276 of this title, respectively.

Amendments

2009—Subsec. (a)(4). Pub. L. 111–11 struck out “for a period not to exceed twenty years from November 17, 1986,” before “if such facility”.

.....

§ 544I. 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,¹ 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.
 - (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)²

and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103)² 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.

Footnotes

¹ So in original. The comma probably should not appear.

² See References in Text note below.

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

References in Text

The Mineral Lands Leasing Act of 1920, referred to in subsec. (e)(2)(A)(ii), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Act of June 9, 1916, referred to in subsec. (e)(2)(A)(ii), is act June 9, 1916, ch. 137, 39 Stat. 218, which is not classified to the Code.

Act of Feb. 26, 1919, referred to in subsec. (e)(2)(A)(ii), is act Feb. 26, 1919, ch. 47, 40 Stat. 1179, which is not classified to the Code.

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

The Coastal Zone Management Act of 1972, referred to in subsec. (e)(3)(D)(iii), is title III of Pub. L. 89–454 as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§ 1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

The Disaster Relief Act of 1974, referred to in subsec. (e)(3)(D)(v), was renamed The Robert T. Stafford Disaster Relief and Emergency Assistance Act, and was substantially revised by Pub. L. 100–707, Nov. 23, 1988, 102 Stat. 4689. Section 102(b) of Pub. L. 100–707 provided that a reference in any other law to a provision of the Disaster Relief Act of 1974 shall be deemed to be a reference to such provision of The Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act was renamed the Robert T. Stafford Disaster Relief and Emergency Assistance Act by Pub. L. 106–390, title III, § 301, Oct. 30, 2000, 114 Stat. 1572. Section 105(d) of Pub. L. 100–707 repealed sections 305 and 306 of the Act (42 U.S.C. 5145 and 5146) and redesignated sections 308 and 309 of the Act (42 U.S.C. 5148 and 5149), and any references thereto, as sections 305 and 306, respectively. For corresponding provisions to former sections 305 and 306 of the Act, see sections 5170a, 5170b, and 5192 of Title 42, The Public Health and Welfare.

Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103), referred to in subsec. (e)(3)(D)(v), was repealed by Pub. L. 103–325, title V, § 551(a), Sept. 23, 1994, 108 Stat. 2269.

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (e)(4), is Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

Amendments

2000—Subsec. (c)(3). Pub. L. 106–291 inserted par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, substituted “Except as provided in subparagraph (B), no payment” for “No payment”, substituted “eighth full fiscal year” for “fifth full fiscal year”, and added subpar. (B).

.....

§ 544m. 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 Commission¹ under sections 544 to 544p of this title; or

(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 4² of this subsection; or

(D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

Footnotes

¹ So in original. The word “Commission” probably should not appear.

² So in original. Probably should be paragraph “(4)”.

(Pub. L. 99–663, § 15, Nov. 17, 1986, 100 Stat. 4297.)

.....

§ 544n. 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;¹

(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.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

(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 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.

Footnotes

¹ So in original. The semicolon probably should be a colon.

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

References in Text

The Land and Water Conservation Fund (16 U.S.C. 4601-4 and following), referred to in subsec. (a)(1), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 4601-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601-4 of this title and Tables.

.....

§ 544o. Savings provisions

(a) Effect on rights of Indians, use of water, rivers and streams, interstate compacts, existing transmission facilities, hunting and fishing, forest plans, scenic areas

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;

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

(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, § 17, Nov. 17, 1986, 100 Stat. 4300.)

References in Text

Section 13 (c), referred to in subsec. (a)(2) to (4), is section 13(c) of Pub. L. 99–663, Nov. 17, 1986, 100 Stat. 4294, which amended section 1274 (a) of this title.

The National Forest Management Act of 1976, referred to in subsec. (a)(9), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The National Environmental Policy Act, referred to in subsec. (f), probably means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

.....

§ 544p. Severability

(a) ¹ 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.

Footnotes

¹ So in original. No subsec. (b) has been enacted.

(Pub. L. 99–663, § 18, Nov. 17, 1986, 100 Stat. 4302.)

.....

§ 545. Mount Pleasant National Scenic Area; purposes

The purposes of sections 545 and 545a of this title with respect to the Mount Pleasant National Scenic Area are to—

- (1) ensure appropriate protection and preservation of the scenic quality, water quality, natural characteristics, and water resources;
- (2) protect and manage vegetation to provide wildlife and fish habitat, consistent with paragraph (1);
- (3) provide areas that may develop characteristics of old-growth forests; and
- (4) provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

(Pub. L. 103–314, § 2, Aug. 26, 1994, 108 Stat. 1703; Pub. L. 104–127, title IX, § 915, Apr. 4, 1996, 110 Stat. 1187.)

Amendments

1996—Pub. L. 104–127 substituted “Mount Pleasant National Scenic Area” for “George Washington National Forest Mount Pleasant Scenic Area” in introductory provisions.

Short Title

Section 1 of Pub. L. 103–314, as amended by Pub. L. 104–127, title IX, § 915, Apr. 4, 1996, 110 Stat. 1187, provided that: “This Act [enacting sections 545 and 545a of this title] may be cited as the ‘Mount Pleasant National Scenic Area Act.’”

.....

§ 545a. Establishment of Mount Pleasant National Scenic Area

(a) In general

(1) Establishment

There is hereby established in the George Washington National Forest, Virginia, the Mount Pleasant National Scenic Area (in this section referred to as the “scenic area”).

(2) Lands included in scenic area

The scenic area shall consist of certain lands in the George Washington National Forest, Virginia, which comprise approximately seven thousand five hundred and eighty acres, as generally depicted on a map entitled “Mount Pleasant National Scenic Area—Proposed”, dated June 21, 1993.

(3) Maps and descriptions

As soon as practicable after August 26, 1994, the Secretary shall file a map and boundary description of the scenic area with the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. The map and description shall have the same force and effect as if included in sections 545 and 545a of this title, except that the Secretary is authorized to correct clerical and typographical errors in such boundary description and map. Such map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture. In the case of any discrepancy between the acreage and the map described in paragraph (2), the map shall control.

(b) Administration

(1) In general

The Secretary of Agriculture (in this section referred to as the “Secretary”) shall administer the scenic area in accordance with sections 545 and 545a of this title and the laws and regulations generally applicable to the National Forest System. In the event of conflict between sections 545 and 545a of this title and other laws and regulations, sections 545 and 545a of this title shall take precedence.

(2) Management plan

Within three years after August 26, 1994, the Secretary shall develop a management plan for the scenic area as an amendment to the Land and Resource Management Plan for the George Washington National Forest. Such an amendment shall conform to the provisions of sections 545 and 545a of this title. Nothing in sections 545 and 545a of this title shall require the Secretary to revise the Land and Resource Management Plan for the George Washington National Forest pursuant to section 1604 of this title.

(c) Roads

After August 26, 1994, no new permanent roads shall be constructed within the scenic area, except that this prohibition shall not be construed to deny access to private lands or interests therein in the scenic area.

(d) Vegetation management

No timber harvest shall be allowed within the scenic area, except as may be necessary in the control of fire, insects, and diseases and to provide for public safety and trail access. Notwithstanding the foregoing, the Secretary may engage in vegetation manipulation practices for maintenance of existing wildlife clearings and visual quality. Firewood may be harvested for personal use along perimeter roads under such conditions as the Secretary may impose.

(e) Motorized travel

(1) Authorized routes

Motorized travel in the scenic area shall be allowed on State Route 635. Subject to such conditions as the Secretary may impose, motorized travel in the scenic area shall also be allowed on Forest Development Road 51.

(2) Other areas

Other than as provided in paragraph (1), motorized travel shall not be permitted within the scenic area, except that the Secretary may authorize motorized travel within the scenic area as necessary for administrative use in furtherance of the purposes of sections 545 and 545a of this title and on temporary routes in support of wildlife management projects.

(f) Fire

Wildfires shall be suppressed in a manner consistent with the purposes of sections 545 and 545a of this title, using such means as the Secretary considers appropriate.

(g) Insects and disease

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

Insect and disease outbreaks may be controlled in the scenic area to maintain scenic quality, prevent tree mortality, reduce hazards to visitors, or protect private lands.

(h) Water

The scenic area shall be administered so as to maintain or enhance existing water quality.

(i) Mining withdrawal

Subject to valid existing rights, all federally owned lands in the scenic area are hereby withdrawn from location, entry, and patent under the mining laws of the United States and from leasing claims under the mineral and geothermal leasing laws of the United States, including amendments to such laws.

(Pub. L. 103–314, § 3, Aug. 26, 1994, 108 Stat. 1703; Pub. L. 104–127, title IX, § 915, Apr. 4, 1996, 110 Stat. 1187.)

References in Text

The mining laws and the mineral leasing laws of the United States, referred to in subsec. (i), are classified generally to Title 30, Mineral Lands and Mining.

The geothermal leasing laws of the United States, referred to in subsec. (i), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

Amendments

1996—Subsec. (a)(1). Pub. L. 104–127 substituted “Mount Pleasant National Scenic Area” for “George Washington National Forest Mount Pleasant Scenic Area”.

.....

§ 545b. Opal Creek Wilderness and Scenic Recreation Area

(a) Definitions

In this section:

(1) Bull of the Woods Wilderness

The term “Bull of the Woods Wilderness” means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) Opal Creek Wilderness

The term “Opal Creek Wilderness” means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled “Proposed Opal Creek Wilderness and Scenic Recreation Area”, dated July 1996.

(3) Scenic Recreation Area

The term “Scenic Recreation Area” means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as generally depicted on the map entitled “Proposed Opal Creek Wilderness and Scenic Recreation Area”, dated July 1996 and established under subsection (c)(1)(C) of this section.

(4) Secretary

The term “Secretary” means the Secretary of Agriculture.

(b) Purposes

The purposes of this section are—

- (1)** to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic and cultural resources of the area in the vicinity of Opal Creek;
- (2)** to protect and support the economy of the communities of the Santiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the North Santiam River.

(c) Establishment

(1) Establishment

On a determination by the Secretary under paragraph (2)—

(A) the Opal Creek Wilderness, as depicted on the map described in subsection (a)(2) of this section, is hereby designated as wilderness, subject to the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.], shall become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(B) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(C) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map described in subsection (a)(3) of this section.

(2) Conditions

The designations in paragraph (1) shall not take effect unless the Secretary makes a determination, not later than 2 years after November 12, 1996, that the following conditions have been met:

(A) the following have been donated to the United States in an acceptable condition and without encumbrances:

(i) all right, title, and interest in the following patented parcels of land—

(I) Santiam Number 1, mineral survey number 992, as described in patent number 39-92-0002, dated December 11, 1991;

(II) Ruth Quartz Mine Number 2, mineral survey number 994, as described in patent number 39-91-0012, dated February 12, 1991;

(III) Morning Star Lode, mineral survey number 993, as described in patent number 36-91-0011, dated February 12, 1991;

(ii) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(iii) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36-91-0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(B) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(i) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39-91-0012, dated February 12, 1991.

(3) Additions to the wilderness and scenic recreation areas

(A) Lands or interests in lands conveyed to the United States under this subsection shall be included in and become part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(B) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, commonly known as the Rosboro section by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(C) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Time Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

(d) Administration

(1) In general

The Secretary shall administer the Scenic Recreation Area in accordance with this section and the laws (including regulations) applicable to the National Forest System.

(2) Opal Creek Management Plan

(A) In general

Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under subsection (e)(1) of this section, shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(B) Incorporation in land and resource management

Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in such land and resource management plan. Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act [16 U.S.C. 1531 et seq.] or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(C) Requirements

The Opal Creek Management Plan shall provide for a broad range of land uses, including—

- (i) recreation;
- (ii) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and
- (iii) educational and research opportunities.

(D) Plan amendments

The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this section.

(3) Cultural and historic resource inventory

(A) In general

Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98–328).

(B) Interpretation

Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(4) Transportation planning

(A) ¹ In general

Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area. To maintain reasonable motorized and other access to recreation sites and facilities in existence on November 12, 1996, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that—

- (i) evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads should be closed;
- (ii) provides guidelines for transportation and access consistent with this section;
- (iii) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;
- (iv) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in subsection (a)(2) of this section, to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and
- (v) restricts construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon November 12, 1996, which shall not include paving or widening.

In order to comply with subsection (f)(2) of this section, the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on November 12, 1996.

(5) Hunting and fishing

(A) In general

Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(B) Limitation

The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment of the Scenic Recreation Area.

(C) Consultation

Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(6) Timber cutting

(A) In general

Subject to subparagraph (B), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Reservation Area.

(B) Permitted cutting

(i) In general

Subject to clause (ii), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

- (I)** for public safety, such as to control the continued spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;
- (II)** for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or
- (III)** for removal of hazard trees along trails and roadways.

(ii) Salvage sales

The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(7) Withdrawal

(A) ² subject ³ to valid existing rights, all lands in the Scenic Recreation Area are withdrawn from—

- (i) any form of entry, appropriation, or disposal under the public lands laws;
- (ii) location, entry, and patent under the mining laws; and
- (iii) disposition under the mineral and geothermal leasing laws.

(8) Bornite Project

(A) Nothing in this section shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection (a)(3) of this section, conducted in accordance with applicable laws.

(B) Nothing in this section shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(C) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(D) After November 12, 1996, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(9) Water impoundments

Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of paragraph (8) with regard to the Bornite Project.

(10) Recreations

(A) Recognition

Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(B) Minimum levels

The management plan shall permit recreation activities at not less than the levels in existence on November 12, 1996.

(C) Higher levels

The management plan may provide for levels of recreation use higher than the levels in existence on November 12, 1996, if such uses are consistent with the protection of the resource values of the Scenic Recreation Area.

(D) Public trail access

The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Ax Creek, Opal Pool and other areas in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(11) Participation

So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(A) Advisory council

The Secretary shall consult on a periodic and regular basis with the advisory council established under subsection (e) of this section with respect to matters relating to management of the Scenic Recreation Area.

(B) Public participation

The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(C) Other agencies

The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(D) Nonprofit agencies and organizations

The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

(e) Advisory council

(1) Establishment

Not later than 90 days after the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(2) Membership

The advisory council shall consist of not more than 13 members, of whom—

(A) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(B) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon;

(C) 1 member shall represent the City of Salem, and shall be designated by the mayor of Salem, Oregon;

(D) 1 member from a city within a 25-mile radius of the Opal Creek Scenic Recreation Area, to be designated by the Governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25-mile radius of the Opal Creek Scenic Recreation Area; and

(E) not more than 9 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek Wilderness and Scenic Recreation Area, economic development interests and Indian tribes.

(3) Staggered terms

Members of the advisory council shall serve for staggered terms of 3 years.

(4) Chairman

The Secretary shall designate 1 member of the advisory council as chairman.

(5) Vacancies

The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(6) Compensation

Members of the advisory council shall receive no compensation for their service on the advisory council.

(f) General provisions

(1) Land acquisition

(A) In general

Subject to the other provisions of this section, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this section.

(B) Public land

Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(C) Condemnation

Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(i) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on November 12, 1996; and

(ii) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title⁴ or the management plan prepared under subsection (d)(2) of this section.

(D) Construction

Nothing in this section shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(2) Environmental response actions and cost recovery

(A) Response actions

Nothing in this section shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) Liability

Nothing in this section shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(3) Maps and description

(A) In general

As soon as practicable after November 12, 1996, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) Force and effect

The boundary description and map shall have the same force and effect as if the description and map were included in this section, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(C) Availability

The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(4) Savings provision

Nothing in this section shall interfere with activity for which a special use permit has been issued, has not been revoked, and has not expired, before November 12, 1996, subject to the terms of the permit.

(g) Rosboro land exchange

(1) Authorization

Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this subsection as "Rosboro") offers and conveys marketable title to the United States to the land described in paragraph (2), the Secretary of Agriculture shall convey all right, title and interest held by the United States to sufficient lands described in paragraph (3) to Rosboro, in the order in which they appear in this subsection, as necessary to satisfy the equal value requirements of paragraph (4).

(2) Land to be offered by Rosboro

The land referred to in paragraph (1) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(3) Land to be conveyed by the United States

The land referred to in paragraph (1) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be equal value under paragraph (4):

- (A)** Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);
- (B)** Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);
- (C)** Section 13, Township 17 South, Range 4 East, S1/2SE1/4 (80 acres);
- (D)** Section 2, Township 17 South, Range 4 East, SW1/4SW1/4 (40 acres);
- (E)** Section 2, Township 17 South, Range 4 East, NW1/4SE1/4 (40 acres);
- (F)** Section 8, Township 17 South, Range 4 East, SE1/4SW1/4 (40 acres);
- (G)** Section 11, Township 17 South, Range 4 East, W1/2NW1/4 (80 acres);⁵

(4) Equal value

The land and interests in land exchanged under this subsection shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 1716 (d) of title 43, and other applicable law. The appraisal shall consider access costs for the parcels involved.

(5) Timetable

(A) The exchange directed by this subsection shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in paragraph (2) to the United States.

(B) The authority provided by this subsection shall lapse if ⁶ Rosboro fails to offer the land described in paragraph (2) within 2 years after November 12, 1996.

(6) Challenge

Rosboro shall have the right to challenge in the United States District Court for the District of Oregon a determination of marketability under paragraph (1) and a determination of value for the lands described in paragraphs (2) and (3) by the Secretary of Agriculture. The court shall have the authority to order the Secretary to complete the transaction contemplated in this subsection.

(7) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(h) Omitted

(i) Economic development

(1) Economic development plan

As a condition for receiving funding under paragraph (2), the State of Oregon, in consultation with Marion County, Oregon, and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this subsection may be used in a manner consistent with this section and to benefit local communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(2) Funds provided to the States for grants

Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in paragraph (1), the Secretary shall provide, subject to appropriations, \$15,000,000 to the State of Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this section and benefit the local communities in the vicinity of the Opal Creek area.

(3) Report

The State of Oregon shall—

(A) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this subsection;

(B) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this subsection; and

(C) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

Footnotes

¹ So in original. No subpar. (B) has been enacted.

² So in original. No subpar. (B) has been enacted.

³ So in original. Probably should be capitalized.

⁴ So in original. Probably should be “section”.

⁵ So in original. The semicolon probably should be a period.

⁶ So in original. Probably should be “if”.

(Pub. L. 104–333, div. I, title X, § 1023, Nov. 12, 1996, 110 Stat. 4215; Pub. L. 106–176, title I, § 125, Mar. 10, 2000, 114 Stat. 30.)

References in Text

The Wilderness Act, referred to in subsec. (c)(1)(A), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Endangered Species Act, referred to in subsec. (d)(2)(B), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.)

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Forest Management Act, referred to in subsec. (d)(2)(B), probably means the National Forest Management Act of 1976, Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

The Oregon Wilderness Act of 1984, referred to in subsec. (d)(3)(A), is Pub. L. 98-328, June 26, 1984, 98 Stat. 272, which enacted subchapter C (§ 460oo) of chapter 1 of this title and provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of this Act to the Code, see Tables.

The public land laws, referred to in subsec. (d)(7)(A)(i), are classified generally to Title 43, Public Lands.

The mining laws and the mineral leasing laws, referred to in subsec. (d)(7)(A)(ii), (iii), (8)(D), are classified generally to Title 30, Mineral Lands and Mining.

The geothermal leasing laws, referred to in subsec. (d)(7)(A)(iii), are classified principally to chapter 23 (§ 1001 et seq.) of Title 30.

The Federal Power Act, referred to in subsec. (d)(9), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (f)(2)(A), is Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§ 9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

Codification

Section is comprised of section 1023 of Pub. L. 104-333. Subsec. (c)(1)(A) of section 1023 of Pub. L. 104-333 also enacted provisions listed in a table of Wilderness Areas set out under section 1132 of this title. Subsec. (h) of section 1023 of Pub. L. 104-333 amended section 1274 of this title.

Provisions substantially identical to the text of this section were enacted by title I of div. B of Pub. L. 104-208, Sept. 30, 1996, 110 Stat. 3009-523, known as the Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996.

Amendments

2000—Subsec. (c)(1)(A). Pub. L. 106-176 struck out “of 1964” after “Wilderness Act”.

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Short Title

Pub. L. 104-208, div. B, title I, § 101, Sept. 30, 1996, 110 Stat. 3009-523, provided that: “This title [see Codification note above] may be cited as the ‘Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996’.”

Termination of Advisory Councils

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

.....

§ 546. Establishment of Saint Helena Island National Scenic Area, Michigan

(a) Purpose

The purposes of sections 546 to 546a-5 of this title are—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- (1) to preserve and protect for present and future generations the outstanding resources and values of Saint Helena Island in Lake Michigan, Michigan; and
- (2) to provide for the conservation, protection, and enhancement of primitive recreation opportunities, fish and wildlife habitat, vegetation, and historical and cultural resources of the island.

(b) Establishment

For the purposes described in subsection (a) of this section, there shall be established the Saint Helena Island National Scenic Area (in sections 546 to 546a–5 of this title referred to as the “scenic area”).

(c) Effective upon conveyance

Subsection (b) of this section shall be effective upon conveyance of satisfactory title to the United States of the whole of Saint Helena Island, except that portion conveyed to the Great Lakes Lighthouse Keepers Association pursuant to section 1001 of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3948).

(Pub. L. 106–431, § 2, Nov. 6, 2000, 114 Stat. 1905.)

References in Text

Section 1001 of the Coast Guard Authorization Act of 1996, referred to in subsec. (c), is section 1001 of Pub. L. 104–324, title X, Oct. 19, 1996, 110 Stat. 3948, which is not classified to the Code.

Short Title

Pub. L. 106–431, § 1, Nov. 6, 2000, 114 Stat. 1905, provided that: “This Act [enacting sections 546 to 546a–5 of this title] may be cited as the ‘Saint Helena Island National Scenic Area’.”

.....

§ 546a. Boundaries

(a) Saint Helena Island

The scenic area shall comprise all of Saint Helena Island, in Lake Michigan, Michigan, and all associated rocks, pinnacles, islands, and islets within one-eighth mile of the shore of Saint Helena Island.

(b) Boundaries of Hiawatha National Forest extended

Upon establishment of the scenic area, the boundaries of the Hiawatha National Forest shall be extended to include all of the lands within the scenic area. All such extended boundaries shall be deemed boundaries in existence as of January 1, 1965, for the purposes of section 460l–9 of this title.¹

(c) Payments to local governments

Solely for purposes of payments to local governments pursuant to section 6902 of title 31, lands acquired by the United States under sections 546 to 546a–5 of this title shall be treated as entitlement lands.

Footnotes

¹ See References in Text note below.

(Pub. L. 106–431, § 3, Nov. 6, 2000, 114 Stat. 1905.)

References in Text

Section 460l–9 of this title, referred to in subsec. (b), was in the original “section 8 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9)” which was translated as if it referred to section 7 of the Land and Water Conservation Fund Act of 1965, to reflect the probable intent of Congress. Section 8 of the Act is classified to section 460l–10 of this title and does not relate to boundaries of National Forests in existence as of January 1, 1965.

.....

§ 546a-1. Administration and management

(a) Administration

Subject to valid existing rights, the Secretary of Agriculture (in sections 546 to 546a-5 of this title referred to as the “Secretary”) shall administer the scenic area in accordance with the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes of sections 546 to 546a-5 of this title.

(b) Special management requirements

Within 3 years of the acquisition of 50 percent of the land authorized for acquisition under section 546a-4 of this title, the Secretary shall develop an amendment to the land and resources management plan for the Hiawatha National Forest which will direct management of the scenic area. Such an amendment shall conform to the provisions of sections 546 to 546a-5 of this title. Nothing in sections 546 to 546a-5 of this title shall require the Secretary to revise the land and resource management plan for the Hiawatha National Forest pursuant to section 1604 of this title. In developing a plan for management of the scenic area, the Secretary shall address the following special management considerations:

(1) Public access

Alternative means for providing public access from the mainland to the scenic area shall be considered, including any available existing services and facilities, concessionaires, special use permits, or other means of making public access available for the purposes of sections 546 to 546a-5 of this title.

(2) Roads

After November 6, 2000, no new permanent roads shall be constructed within the scenic area.

(3) Vegetation management

No timber harvest shall be allowed within the scenic area, except as may be necessary in the control of fire, insects, and diseases, and to provide for public safety and trail access. Notwithstanding the foregoing, the Secretary may engage in vegetation manipulation practices for maintenance of wildlife habitat and visual quality. Trees cut for these purposes may be utilized, salvaged, or removed from the scenic area as authorized by the Secretary.

(4) Motorized travel

Motorized travel shall not be permitted within the scenic area, except on the waters of Lake Michigan, and as necessary for administrative use in furtherance of the purposes of sections 546 to 546a-5 of this title.

(5) Fire

Wildfires shall be suppressed in a manner consistent with the purposes of sections 546 to 546a-5 of this title, using such means as the Secretary deems appropriate.

(6) Insects and disease

Insect and disease outbreaks may be controlled in the scenic area to maintain scenic quality, prevent tree mortality, or to reduce hazards to visitors.

(7) Dockage

The Secretary shall provide through concession, permit, or other means docking facilities consistent with the management plan developed pursuant to this section.

(8) Safety

The Secretary shall take reasonable actions to provide for public health and safety and for the protection of the scenic area in the event of fire or infestation of insects or disease.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

(c) Consultation

In preparing the management plan, the Secretary shall consult with appropriate State and local government officials, provide for full public participation, and consider the views of all interested parties, organizations, and individuals.

(Pub. L. 106-431, § 4, Nov. 6, 2000, 114 Stat. 1906.)

.....

§ 546a-2. Fish and game

Nothing in sections 546 to 546a-5 of this title shall be construed as affecting the jurisdiction or responsibilities of the State of Michigan with respect to fish and wildlife in the scenic area.

(Pub. L. 106-431, § 5, Nov. 6, 2000, 114 Stat. 1907.)

.....

§ 546a-3. Minerals

Subject to valid existing rights, the lands within the scenic area are hereby withdrawn from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing. Also subject to valid existing rights, the Secretary shall not allow any mineral development on federally owned land within the scenic area, except that common varieties of mineral materials, such as stone and gravel, may be utilized only as authorized by the Secretary to the extent necessary for construction and maintenance of roads and facilities within the scenic area.

(Pub. L. 106-431, § 6, Nov. 6, 2000, 114 Stat. 1907.)

References in Text

The mineral leasing laws, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

Geothermal leasing laws, referred to in text, are classified principally to chapter 23 (§ 1001 et seq.) of Title 30, Mineral Lands and Mining.

.....

§ 546a-4. Acquisition

(a) Acquisition of lands within the scenic area

The Secretary shall acquire, by purchase from willing sellers, gift, or exchange, lands, waters, structures, or interests therein, including scenic or other easements, within the boundaries of the scenic area to further the purposes of sections 546 to 546a-5 of this title.

(b) Acquisition of other lands

The Secretary may acquire, by purchase from willing sellers, gift, or exchange, not more than 10 acres of land, including any improvements thereon, on the mainland to provide access to and administrative facilities for the scenic area.

(Pub. L. 106-431, § 7, Nov. 6, 2000, 114 Stat. 1907.)

.....

§ 546a-5. Authorization of appropriations

(a) Acquisition of lands

There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land, interests in land, or structures within the scenic area and on the mainland as provided in section 546a-4 of this title.

(b) Other purposes

In addition to the amounts authorized to be appropriated under subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary for the development and implementation of the management plan under section 546a-1 (b) of this title.

(Pub. L. 106-431, § 8, Nov. 6, 2000, 114 Stat. 1907.)

.....

§ 546b. Seng Mountain and Bear Creek Scenic Areas, Jefferson National Forest, Virginia

(a) Establishment

There are designated as National Scenic Areas—

- (1) certain National Forest System land in the Jefferson National Forest, comprising approximately 5,192 acres, as generally depicted on the map entitled “Seng Mountain and Raccoon Branch” and dated April 28, 2008, which shall be known as the “Seng Mountain National Scenic Area”; and
- (2) certain National Forest System land in the Jefferson National Forest, comprising approximately 5,128 acres, as generally depicted on the map entitled “Bear Creek” and dated April 28, 2008, which shall be known as the “Bear Creek National Scenic Area”.

(b) Purposes

The purposes of the scenic areas are—

- (1) to ensure the protection and preservation of scenic quality, water quality, natural characteristics, and water resources of the scenic areas;
- (2) consistent with paragraph (1), to protect wildlife and fish habitat in the scenic areas;
- (3) to protect areas in the scenic areas that may develop characteristics of old-growth forests; and
- (4) consistent with paragraphs (1), (2), and (3), to provide a variety of recreation opportunities in the scenic areas.

(c) Administration

(1) In general

The Secretary shall administer the scenic areas in accordance with—

- (A) this subtitle; and
- (B) the laws (including regulations) generally applicable to the National Forest System.

(2) Authorized uses

The Secretary shall only allow uses of the scenic areas that the Secretary determines will further the purposes of the scenic areas, as described in subsection (b).

(d) Management plan

(1) In general

Not later than 2 years after March 30, 2009, the Secretary shall develop as an amendment to the land and resource management plan for the Jefferson National Forest a management plan for the scenic areas.

(2) Effect

Nothing in this subsection requires the Secretary to revise the land and resource management plan for the Jefferson National Forest under section 1604 of this title.

(e) Roads

(1) In general

Except as provided in paragraph (2), after March 30, 2009, no roads shall be established or constructed within the scenic areas.

(2) Limitation

Nothing in this subsection denies any owner of private land (or an interest in private land) that is located in a scenic area the right to access the private land.

(f) Timber harvest

(1) In general

Except as provided in paragraphs (2) and (3), no harvesting of timber shall be allowed within the scenic areas.

(2) Exceptions

The Secretary may authorize harvesting of timber in the scenic areas if the Secretary determines that the harvesting is necessary to—

- (A) control fire;
- (B) provide for public safety or trail access; or
- (C) control insect and disease outbreaks.

(3) Firewood for personal use

Firewood may be harvested for personal use along perimeter roads in the scenic areas, subject to any conditions that the Secretary may impose.

(g) Insect and disease outbreaks

The Secretary may control insect and disease outbreaks—

- (1) to maintain scenic quality;
- (2) to prevent tree mortality;
- (3) to reduce hazards to visitors; or
- (4) to protect private land.

(h) Vegetation management

The Secretary may engage in vegetation manipulation practices in the scenic areas to maintain the visual quality and wildlife clearings in existence on March 30, 2009.

(i) Motorized vehicles

(1) In general

Except as provided in paragraph (2), motorized vehicles shall not be allowed within the scenic areas.

(2) Exceptions

The Secretary may authorize the use of motorized vehicles—

- (A) to carry out administrative activities that further the purposes of the scenic areas, as described in subsection (b);
- (B) to assist wildlife management projects in existence on March 30, 2009; and
- (C) during deer and bear hunting seasons—
 - (i) on Forest Development Roads 49410 and 84b; and
 - (ii) on the portion of Forest Development Road 6261 designated on the map described in subsection (a)(2) as “open seasonally”.

(j) Wildfire suppression

Wildfire suppression within the scenic areas shall be conducted—

- (1) in a manner consistent with the purposes of the scenic areas, as described in subsection (b); and
- (2) using such means as the Secretary determines to be appropriate.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(k) Water

The Secretary shall administer the scenic areas in a manner that maintains and enhances water quality.

(l) Withdrawal

Subject to valid existing rights, all Federal land in the scenic areas is withdrawn from—

- (1) location, entry, and patent under the mining laws; and
- (2) operation of the mineral leasing and geothermal leasing laws.

(Pub. L. 111–11, title I, § 1104, Mar. 30, 2009, 123 Stat. 1004.)

References in Text

This subtitle, referred to in subsec. (c)(1)(A), is subtitle B (§§ 1101–1107) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1002, which enacted this section and section 546b–1 of this title, enacted provisions set out as a note below, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title. For complete classification of subtitle B to the Code, see Tables.

Definitions

Pub. L. 111–11, title I, § 1101, Mar. 30, 2009, 123 Stat. 1002, provided that: “In this subtitle [subtitle B (§§ 1101–1107) of title I of Pub. L. 111–11, enacting this section and section 546b–1 of this title and enacting and amending provisions listed in a table of Wilderness Areas set out under section 1132 of this title]:

“(1) Scenic areas.—The term ‘scenic areas’ means the Seng Mountain National Scenic Area and the Bear Creek National Scenic Area.

“(2) Secretary.—The term ‘Secretary’ means the Secretary of Agriculture.”

.....

§ 546b–1. Maps and boundary descriptions

(a) In general

As soon as practicable after March 30, 2009, the Secretary shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives maps and boundary descriptions of—

- (1) the scenic areas;
- (2) the wilderness areas designated by paragraphs (9) through (20) of section 1 of Public Law 100–326 (16 U.S.C. 1132 note) (as added by section 1102 (a)(5));
- (3) the wilderness study area designated by section 6(a)(5) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note ; Public Law 98–586) (as added by section 1102 (b)(2)(D)); and
- (4) the potential wilderness area designated by section 1103 (a).¹

(b) Force and effect

The maps and boundary descriptions filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any minor errors in the maps and boundary descriptions.

(c) Availability of map and boundary description

The maps and boundary descriptions filed under subsection (a) shall be on file and available for public inspection in the Office of the Chief of the Forest Service.

(d) Conflict

In the case of a conflict between a map filed under subsection (a) and the acreage of the applicable areas specified in this subtitle, the map shall control.

Footnotes

¹ See References in Text note below.

(Pub. L. 111–11, title I, § 1106, Mar. 30, 2009, 123 Stat. 1007.)

References in Text

Paragraphs (9) through (20) of section 1 of Public Law 100–326 as added by section 1102 (a)(5), referred to in subsec. (a)(2), means paragraphs (9) through (20) of section 1 of Public Law 100–326 as added by section 1102(a)(5) of Pub. L. 111–11, which enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

Section 6(a)(5) of the Virginia Wilderness Act of 1984 (Public Law 98–586) (as added by section 1102 (b)(2)(D)), referred to in subsec. (a)(3), is section 6(a)(5) of Pub. L. 98–586, as added by section 1102(b)(2)(D) of Pub. L. 111–11, title I, Mar. 30, 2009, 123 Stat. 1004, which is not classified to the Code.

Section 1103 (a), referred to in subsec. (a)(4), means section 1103(a) of Pub. L. 111–11, which amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

This subtitle, referred to in subsecs. (b) and (d), is subtitle B (§§ 1101–1107) of title I of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1002, which enacted this section and section 546b of this title, enacted provisions set out as a note under section 546b of this title, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of this title.

Definitions

For definitions of terms used in this section, see section 1101 of Pub. L. 111–11, set out as a note under section 546b of this title.