§ 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 of this title and section 472a (i) of this title, and rules issued thereunder, as in effect on the day before October 21, 1998.


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.