

(2) In determining the amount of civil penalty under this section, the Secretary shall consider the seriousness of the damages from the discharge, the cause of the discharge, any history of prior violations of applicable rules and laws, and the degree of success of any efforts by the violator to minimize or mitigate the effects of such discharge.

(3) The Secretary may reduce or waive the penalty imposed under this section if the discharge was solely caused by an act of war, act of God, or third party action beyond the control of the persons liable under this section.

(4) No civil penalty assessed by the Secretary pursuant to this section shall be in addition to a penalty assessed pursuant to section 1321(b) of title 33.

(d) Procedures

A civil penalty may be assessed and collected under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5. In any proceeding for the assessment of a civil penalty under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures. Any person who requested a hearing with respect to a civil penalty under this subsection and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(e) State law

(1) Nothing in this section shall be construed or interpreted as preempting any State or political subdivision thereof from imposing any additional liability or requirements with respect to the discharge, or threat of discharge, of oil or other pollution by oil.

(2) Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to discharges of oil.

(Pub. L. 93-153, title II, §207, as added Pub. L. 101-380, title VIII, §8202, Aug. 18, 1990, 104 Stat. 571.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as a note under section 2701 of Title 33, Navigation and Navigable Waters.

CHAPTER 35—FEDERAL LAND POLICY AND MANAGEMENT

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SUBCHAPTER I—GENERAL PROVISIONS

§ 1701. Congressional declaration of policy

(a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before October 21, 1976, be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to

structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

(Pub. L. 94-579, title I, §102, Oct. 21, 1976, 90 Stat. 2744.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (3) and (b), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Mining and Minerals Policy Act of 1970, referred to in subsec. (a)(12), is Pub. L. 91-631, Dec. 31, 1970, 84 Stat. 1876, which is classified to section 21a of Title 30, Mineral Lands and Mining.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–141, div. O, §101(a), Mar. 23, 2018, 132 Stat. 1059, as amended by Pub. L. 116–6, §7(2), Feb. 15, 2019, 133 Stat. 15, provided that: “This division [see Tables for classification] may be cited as the ‘Stephen Sepp Wildfire Suppression Funding and Forest Management Activities Act.’”

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–88, div. A, title V, §501, Oct. 30, 2009, 123 Stat. 2968, provided that: “This title [enacting sections 1748a and 1748b of this title] may be cited as the ‘Federal Land Assistance, Management, and Enhancement Act of 2009’ or ‘FLAME Act of 2009.’”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–409, §1, Aug. 20, 1988, 102 Stat. 1086, provided that: “This Act [enacting section 1723 of this title, amending section 1716 of this title and sections 505a, 505b, and 521b of Title 16, Conservation, and enacting provisions set out as notes under sections 751 and 1716 of this title] may be cited as the ‘Federal Land Exchange Facilitation Act of 1988.’”

SHORT TITLE

Pub. L. 94–579, title I, §101, Oct. 21, 1976, 90 Stat. 2744, provided that: “This Act [see Tables for classification] may be cited as the ‘Federal Land Policy and Management Act of 1976.’”

SAVINGS PROVISION

Pub. L. 94–579, title VII, §701, Oct. 21, 1976, 90 Stat. 2786, provided that:

“(a) Nothing in this Act, or in any amendment made by this Act [see Short Title note above], shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act [Oct. 21, 1976].

“(b) Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j [now 43 U.S.C. 2601 et seq., see Tables for classification]), and May 24, 1939 (53 Stat. 753), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail.

“(c) All withdrawals, reservations, classifications, and designations in effect as of the date of approval of this Act shall remain in full force and effect until modified under the provisions of this Act or other applicable law.

“(d) Nothing in this Act, or in any amendments made by this Act, shall be construed as permitting any person to place, or allow to be placed, spent oil shale, overburden, or byproducts from the recovery of other minerals found with oil shale, on any Federal land other than Federal land which has been leased for the recovery of shale oil under the Act of February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

“(e) Nothing in this Act shall be construed as modifying, revoking, or changing any provision of the Alaska Native Claims Settlement Act (85 Stat. 688, as amended; 43 U.S.C. 1601 et seq.).

“(f) Nothing in this Act shall be deemed to repeal any existing law by implication.

“(g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

“(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

“(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

“(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or

responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

“(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

“(5) as modifying the terms of any interstate compact;

“(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands; or as amending, limiting, or infringing the existing laws providing grants of lands to the States.

“(h) All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

“(i) The adequacy of reports required by this Act to be submitted to the Congress or its committees shall not be subject to judicial review.

“(j) Nothing in this Act shall be construed as affecting the distribution of livestock grazing revenues to local governments under the Granger-Thye Act (64 Stat. 85, 16 U.S.C. 580h), under the Act of May 23, 1908 (35 Stat. 260, as amended; 16 U.S.C. 500), under the Act of March 4, 1913 (37 Stat. 843, as amended; 16 U.S.C. 501), and under the Act of June 20, 1910 (36 Stat. 557).”

SEVERABILITY

Pub. L. 94–579, title VII, §707, Oct. 21, 1976, 90 Stat. 2794, provided that: “If any provision of this Act [see Short Title note set out above] or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.”

REFERENCES TO DIVISION O OF PUB. L. 115–141

Pub. L. 115–141, div. O, §101(b), Mar. 23, 2018, 132 Stat. 1059, as amended by Pub. L. 116–6, §7(2), Feb. 15, 2019, 133 Stat. 15, provided that: “A reference to the Wildfire Suppression Funding and Forest Management Activities Act [div. O of Pub. L. 115–141, see Short Title of 2018 Amendment note above], including a reference in a regulation, order, or other law, is deemed to refer to the Stephen Sepp Wildfire Suppression Funding and Forest Management Activities Act.”

EXISTING RIGHTS-OF-WAY

Pub. L. 94–579, title VII, §706(b), Oct. 21, 1976, 90 Stat. 2794, provided that: “Nothing in section 706(a) [see Tables for classification], except as it pertains to rights-of-way, may be construed as affecting the authority of the Secretary of Agriculture under the Act of June 4, 1897 (30 Stat. 35, as amended, 16 U.S.C. 551); the Act of July 22, 1937 (50 Stat. 525, as amended, 7 U.S.C. 1010–1212); or the Act of September 3, 1954 (68 Stat. 1146, 43 U.S.C. 931c).”

§ 1702. Definitions

Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act—

(a) The term “areas of critical environmental concern” means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

(b) The term “holder” means any State or local governmental entity, individual, partner-

ship, corporation, association, or other business entity receiving or using a right-of-way under subchapter V of this chapter.

(c) The term “multiple use” means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future 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; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term “public involvement” means the opportunity for participation by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term “public lands” means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

- (1) lands located on the Outer Continental Shelf; and
- (2) lands held for the benefit of Indians, Aleuts, and Eskimos.

(f) The term “right-of-way” includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in subchapter V of this chapter.

(g) The term “Secretary”, unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term “sustained yield” means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

(i) The term “wilderness” as used in section 1782 of this title shall have the same meaning as it does in section 1131(c) of title 16.

(j) The term “withdrawal” means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or

transferring jurisdiction over an area of Federal land, other than “property” governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472)¹ from one department, bureau or agency to another department, bureau or agency.

(k) An “allotment management plan” means a document prepared in consultation with the lessees or permittees involved, which applies to livestock operations on the public lands or on lands within National Forests in the eleven contiguous Western States and which:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other needs and objectives as determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management; and

(3) contains such other provisions relating to livestock grazing and other objectives found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(l) The term “principal or major uses” includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term “department” means a unit of the executive branch of the Federal Government which is headed by a member of the President’s Cabinet and the term “agency” means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term “Bureau² means the Bureau of Land Management.

(o) The term “eleven contiguous Western States” means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(p) The term “grazing permit and lease” means any document authorizing use of public lands or lands in National Forests in the eleven contiguous western States for the purpose of grazing domestic livestock.

(Pub. L. 94-579, title I, §103, Oct. 21, 1976, 90 Stat. 2745.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in the opening par. and in subsec. (k), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (j), is act June 30, 1949, ch. 288, 63 Stat. 377, which was substantially repealed and restated in chapters 1 to 11 of Title 40, Pub-

¹ See References in Text note below.

² So in original. Probably should be followed by closing quotation marks.

lic Buildings, Property, and Works, and division C of subtitle I of Title 41, Public Contracts, by Pub. L. 107-217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, which Act enacted Title 40, and Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855, which Act enacted Title 41. For complete classification of this Act to the Code, see Short Title of 1949 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Titles 40 and 41, see Disposition Tables preceding section 101 of Title 40 and section 101 of Title 41.

§ 1703. Cooperative action and sharing of resources by Secretaries of the Interior and Agriculture

In fiscal year 2012 and each fiscal year thereafter, the Secretaries of the Interior and Agriculture, subject to annual review of Congress, may establish programs to conduct projects, planning, permitting, leasing, contracting and other activities, either jointly or on behalf of one another; may co-locate in Federal offices and facilities leased by an agency of either Department; and may promulgate special rules as needed to test the feasibility of issuing unified permits, applications, and leases. The Secretaries of the Interior and Agriculture may make reciprocal delegations of their respective authorities, duties and responsibilities in support of the “Service First” initiative agency-wide to promote customer service and efficiency. Nothing herein shall alter, expand or limit the applicability of any public law or regulation to lands administered by the Bureau of Land Management, National Park Service, Fish and Wildlife Service, or the Forest Service or matters under the purview of other bureaus or offices of either Department. To facilitate the sharing of resources under the Service First initiative, the Secretaries of the Interior and Agriculture may make transfers of funds and reimbursement of funds on an annual basis, including transfers and reimbursements for multi-year projects, except that this authority may not be used to circumvent requirements and limitations imposed on the use of funds.

(Pub. L. 106-291, title III, § 330, Oct. 11, 2000, 114 Stat. 996; Pub. L. 109-54, title IV, § 428, Aug. 2, 2005, 119 Stat. 555; Pub. L. 111-8, div. E, title IV, § 418, Mar. 11, 2009, 123 Stat. 747; Pub. L. 112-74, div. E, title IV, § 422, Dec. 23, 2011, 125 Stat. 1045; Pub. L. 113-76, div. G, title IV, § 430, Jan. 17, 2014, 128 Stat. 345.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 2001, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Section was formerly set out as a note under section 1701 of this title.

AMENDMENTS

2014—Pub. L. 113-76, in first sentence, substituted “programs” for “programs. involving the land management agencies referred to in this section” and “and may promulgate” for “and promulgate” and, in third sentence, inserted “or matters under the purview of other bureaus or offices of either Department” after “Forest Service”.

2011—Pub. L. 112-74 substituted “In fiscal year 2012 and each fiscal year thereafter” for “In fiscal years 2001 through 2011” and “programs.” for “pilot programs”.

2009—Pub. L. 111-8 substituted “2011” for “2008”.

2005—Pub. L. 109-54 substituted “2008” for “2005”, struck out “may pilot test agency-wide joint permitting and leasing programs” before “, subject to annual review”, inserted “may establish pilot programs involving the land management agencies referred to in this section to conduct projects, planning, permitting, leasing, contracting and other activities, either jointly or on behalf of one another; may co-locate in Federal offices and facilities leased by an agency of either Department;” after “Congress,” inserted “, National Park Service, Fish and Wildlife Service,” after “Bureau of Land Management”, and inserted at end “To facilitate the sharing of resources under the Service First initiative, the Secretaries of the Interior and Agriculture may make transfers of funds and reimbursement of funds on an annual basis, including transfers and reimbursements for multi-year projects, except that this authority may not be used to circumvent requirements and limitations imposed on the use of funds.”

SUBCHAPTER II—LAND USE PLANNING AND LAND ACQUISITION AND DISPOSITION

§ 1711. Continuing inventory and identification of public lands; preparation and maintenance

(a) The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

(Pub. L. 94-579, title II, § 201, Oct. 21, 1976, 90 Stat. 2747.)

§ 1712. Land use plans

(a) Development, maintenance, and revision by Secretary

The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b) Coordination of plans for National Forest System lands with Indian land use planning and management programs for purposes of development and revision

In the development and revision of land use plans, the Secretary of Agriculture shall coordi-

nate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs.

(c) Criteria for development and revision

In the development and revision of land use plans, the Secretary shall—

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) rely, to the extent it is available, on the inventory of the public lands, their resources, and other values;

(5) consider present and potential uses of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located, including, but not limited to, the statewide outdoor recreation plans developed under chapter 2003 of title 54, and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other

land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

(d) Review and inclusion of classified public lands; review of existing land use plans; modification and termination of classifications

Any classification of public lands or any land use plan in effect on October 21, 1976, is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification consistent with such land use plans.

(e) Management decisions for implementation of developed or revised plans

The Secretary may issue management decisions to implement land use plans developed or revised under this section in accordance with the following:

(1) Such decisions, including but not limited to exclusions (that is, total elimination) of one or more of the principal or major uses made by a management decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

(2) Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), the Congress adopts a concurrent resolution of nonapproval of the management decision or action, then the management decision or action shall be promptly terminated by the Secretary. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the management decision or action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to

any other resolution with respect to the same management decision or action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) Withdrawals made pursuant to section 1714 of this title may be used in carrying out management decisions, but public lands shall be removed from or restored to the operation of the Mining Law of 1872, as amended (R.S. 2318-2352; 30 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency only by withdrawal action pursuant to section 1714 of this title or other action pursuant to applicable law: *Provided*, That nothing in this section shall prevent a wholly owned Government corporation from acquiring and holding rights as a citizen under the Mining Law of 1872.

(f) Procedures applicable to formulation of plans and programs for public land management

The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

(Pub. L. 94-579, title II, §202, Oct. 21, 1976, 90 Stat. 2747; Pub. L. 113-287, §5(l)(6), Dec. 19, 2014, 128 Stat. 3271.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c)(9), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Mining Law of 1872, as amended, referred to in subsec. (e)(3), is act May 10, 1872, ch. 152, 17 Stat. 91, as amended, 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 R.S. §§2318-2352, see Tables.

AMENDMENTS

2014—Subsec. (c)(9). Pub. L. 113-287 substituted “chapter 2003 of title 54” for “the Act of September 3, 1964 (78 Stat. 897), as amended”.

§ 1713. Sales of public land tracts

(a) Criteria for disposal; excepted lands

A tract of the public lands (except land in units of the National Wilderness Preservation System, National Wild and Scenic Rivers Systems, and National System of Trails) may be sold under this Act where, as a result of land use

planning required under section 1712 of this title, the Secretary determines that the sale of such tract meets the following disposal criteria:

(1) such tract because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

(b) Conveyance of land of agricultural value and desert in character

Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) of this section is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of this section or in accordance with other existing law.

(c) Congressional approval procedures applicable to tracts in excess of two thousand five hundred acres

Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if the Congress has not adopted a concurrent resolution stating that such House does not approve of such designation. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the designation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same designation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has

been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Sale price

Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary.

(e) Maximum size of tracts

The Secretary shall determine and establish the size of tracts of public lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

(f) Competitive bidding requirements

Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to, a preference to users, he may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

- (1) the State in which the land is located;
- (2) the local government entities in such State which are in the vicinity of the land;
- (3) adjoining landowners;
- (4) individuals; and
- (5) any other person.

(g) Acceptance or rejection of offers to purchase

The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (c) of this section, whichever is later, unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consummation of the sale would not be consistent with this Act or other applicable law.

(Pub. L. 94-579, title II, §203, Oct. 21, 1976, 90 Stat. 2750.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (g), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

§ 1714. Withdrawals of lands

(a) Authorization and limitation; delegation of authority

On and after the effective date of this Act the Secretary is authorized to make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

(b) Application and procedures applicable subsequent to submission of application

(1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the Federal Register stating that the application has been submitted for filing or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of lands by the Secretary, or (c) the expiration of two years from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

(c) Congressional approval procedures applicable to withdrawals aggregating five thousand acres or more

(1) On and after October 21, 1976, a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than twenty years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon

shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) With the notices required by subsection (c)(1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees—

(1) a clear explanation of the proposed use of the land involved which led to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist

which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands.

(d) Withdrawals aggregating less than five thousand acres; procedure applicable

A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head—

(1) for such period of time as he deems desirable for a resource use; or

(2) for a period of not more than twenty years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

(e) Emergency withdrawals; procedure applicable; duration

When the Secretary determines, or when the Committee on Natural Resources of the House of Representatives or the Committee on Energy and Natural Resources of the Senate notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c)(1) and (d) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with both of those Committees. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed three years and may not be extended except under the provisions of subsection (c)(1) or (d), whichever is applicable, and (b)(1) of this section. The information required in subsection (c)(2) of this subsection¹ shall be furnished the committees within three months after filing such notice.

(f) Review of existing withdrawals and extensions; procedure applicable to extensions; duration

All withdrawals and extensions thereof, whether made prior to or after October 21, 1976, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c)(1) or (d), whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(g) Processing and adjudication of existing applications

All applications for withdrawal pending on October 21, 1976 shall be processed and adjudicated

¹ So in original. Probably should be "section".

to conclusion within fifteen years of October 21, 1976, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

(h) Public hearing required for new withdrawals

All new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated after an opportunity for a public hearing.

(i) Consent for withdrawal of lands under administration of department or agency other than Department of the Interior

In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

(j) Applicability of other Federal laws withdrawing lands as limiting authority

The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under chapter 3203 of title 54; or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to October 21, 1976, or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd(a)).

(k) Authorization of appropriations for processing applications

There is hereby authorized to be appropriated the sum of \$10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

(l) Review of existing withdrawals in certain States; procedure applicable for determination of future status of lands; authorization of appropriations

(1) The Secretary shall, within fifteen years of October 21, 1976, review withdrawals existing on October 21, 1976, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of (1) all Federal lands other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on October 21, 1976, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National System of Trails; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas or designated as na-

tional recreation areas) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(2) In the review required by paragraph (1) of this subsection, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of the other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals other than those made by Act of the Congress in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives the Congress has adopted a concurrent resolution indicating otherwise. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) There are hereby authorized to be appropriated not more than \$10,000,000 for the purpose of paragraph (1) of this subsection to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

(Pub. L. 94-579, title II, §204, Oct. 21, 1976, 90 Stat. 2751; Pub. L. 103-437, §16(d)(1), Nov. 2, 1994, 108 Stat. 4594; Pub. L. 113-287, §5(l)(7), Dec. 19, 2014, 128 Stat. 3271.)

Editorial Notes

REFERENCES IN TEXT

On and after the effective date of this Act, referred to in subsecs. (a) and (k), probably means on and after the date of enactment of Pub. L. 94-579, which was approved Oct. 21, 1976.

Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd(a)), referred to in subsec. (j), is Pub. L. 94-223, Feb. 27, 1976, 90 Stat. 199, which amended section 668dd of Title 16. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (j), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.), referred to in subsec. (l)(1), is act May 10, 1972, ch. 152, 17 Stat. 91, as amended. That act was incorporated into the Revised Statutes 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 R.S. §§2319 to 2328, 2331, 2333 to 2337, and 2344 to the Code, see Tables.

The Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.), referred to in subsec. (l)(1), 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. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

AMENDMENTS

2014—Subsec. (j). Pub. L. 113-287 substituted “chapter 3203 of title 54” for “the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431-433)”.

1994—Subsec. (e). Pub. L. 103-437, §16(d)(1)(A), substituted “Committee on Natural Resources of the House of Representatives or the Committee on Energy and Natural Resources of the Senate” for “Committee on Interior and Insular Affairs of either the House of Representatives or the Senate” and “both of those Committees” for “the Committees on Interior and Insular Affairs of the Senate and the House of Representatives”.

Subsec. (f). Pub. L. 103-437, §16(d)(1)(B), substituted “Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate” for “Committees on Interior and Insular Affairs of the House of Representatives and the Senate”.

§ 1715. Acquisitions of public lands and access over non-Federal lands to National Forest System units

(a) Authorization and limitations on authority of Secretary of the Interior and Secretary of Agriculture

Notwithstanding any other provisions of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to the acquisition of access over non-Federal lands to units of the National Forest System, are authorized to acquire pursuant to this Act by purchase, exchange, donation, or eminent domain, lands or interests therein: *Provided*, That with respect to the public lands, the Secretary may exercise the power of eminent domain only

if necessary to secure access to public lands, and then only if the lands so acquired are confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as expanding or limiting the authority of the Secretary of Agriculture to acquire land by eminent domain within the boundaries of units of the National Forest System.

(b) Conformity to departmental policies and land-use plan of acquisitions

Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable departmental land-use plans.

(c) Status of lands and interests in lands upon acquisition by Secretary of the Interior; transfers to Secretary of Agriculture of lands and interests in lands acquired within National Forest System boundaries

Except as provided in subsection (e), lands and interests in lands acquired by the Secretary pursuant to this section or section 1716 of this title shall, upon acceptance of title, become public lands, and, for the administration of public land laws not repealed by this Act, shall remain public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to section 315 of this title, they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable thereto.

(d) Status of lands and interests in lands upon acquisition by Secretary of Agriculture

Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

(e) Status and administration of lands acquired in exchange for lands revested in or reconveyed to United States

Lands acquired by the Secretary pursuant to this section or section 1716 of this title in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary.

(Pub. L. 94-579, title II, §205, Oct. 21, 1976, 90 Stat. 2755; Pub. L. 99-632, §5, Nov. 7, 1986, 100 Stat. 3521.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976.

For complete classification of this Act to the Code, see Tables.

Act of June 9, 1916, referred to in subsec. (e), is not classified to the Code.

Act of February 26, 1919, referred to in subsec. (e), is act Feb. 26, 1919, ch. 47, 40 Stat. 1179, which is not classified to the Code.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-632, §5(1), inserted exception relating to subsec. (e).

Subsec. (e). Pub. L. 99-632, §5(2), added subsec. (e).

§ 1716. Exchanges of public lands or interests therein within the National Forest System

(a) Authorization and limitations on authority of Secretary of the Interior and Secretary of Agriculture

A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

(b) Implementation requirements; cash equalization waiver

In exercising the exchange authority granted by subsection (a) or by section 1715(a) of this title, the Secretary concerned may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. For the purposes of this subsection, unsurveyed school sections which, upon survey by the Secretary, would become State lands, shall be considered as "non-Federal lands". The values of the lands exchanged by the Secretary under this Act and by the Secretary of Agriculture under applicable law relating to lands within the National Forest System either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. The Secretary concerned and the other party or parties involved in the exchange may mutually agree to waive the requirement for the payment of money to equalize values where the Secretary concerned determines that the exchange will be expedited thereby and that the public interest will be better served by such a waiver of cash equalization payments and

where the amount to be waived is no more than 3 per centum of the value of the lands being transferred out of Federal ownership or \$15,000, whichever is less, except that the Secretary of Agriculture shall not agree to waive any such requirement for payment of money to the United States. The Secretary concerned shall try to reduce the amount of the payment of money to as small an amount as possible.

(c) Status of lands acquired upon exchange by Secretary of the Interior

Lands acquired by the Secretary by exchange under this section which are within the boundaries of any unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or any other system established by Act of Congress, or the boundaries of the California Desert Conservation Area, or the boundaries of any national conservation area or national recreation area established by Act of Congress, upon acceptance of title by the United States shall immediately be reserved for and become a part of the unit or area within which they are located, without further action by the Secretary, and shall thereafter be managed in accordance with all laws, rules, and regulations applicable to such unit or area.

(d) Appraisal of land; submission to arbitrator; determination to proceed or withdraw from exchange; use of other valuation process; suspension of deadlines

(1) No later than ninety days after entering into an agreement to initiate an exchange of land or interests therein pursuant to this Act or other applicable law, the Secretary concerned and other party or parties involved in the exchange shall arrange for appraisal (to be completed within a time frame and under such terms as are negotiated by the parties) of the lands or interests therein involved in the exchange in accordance with subsection (f) of this section.

(2) If within one hundred and eighty days after the submission of an appraisal or appraisals for review and approval by the Secretary concerned, the Secretary concerned and the other party or parties involved cannot agree to accept the findings of an appraisal or appraisals, the appraisal or appraisals shall be submitted to an arbitrator appointed by the Secretary from a list of arbitrators submitted to him by the American Arbitration Association for arbitration to be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. Such arbitration shall be binding for a period of not to exceed two years on the Secretary concerned and the other party or parties involved in the exchange insofar as concerns the value of the lands which were the subject of the appraisal or appraisals.

(3) Within thirty days after the completion of the arbitration, the Secretary concerned and the other party or parties involved in the exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or to withdraw from the exchange. A decision to

withdraw from the exchange may be made by either the Secretary concerned or the other party or parties involved.

(4) Instead of submitting the appraisal to an arbitrator, as provided in paragraph (2) of this section,¹ the Secretary concerned and the other party or parties involved in an exchange may mutually agree to employ a process of bargaining or some other process to determine the values of the properties involved in the exchange.

(5) The Secretary concerned and the other party or parties involved in an exchange may mutually agree to suspend or modify any of the deadlines contained in this subsection.

(e) Simultaneous issue of patents or titles

Unless mutually agreed otherwise by the Secretary concerned and the other party or parties involved in an exchange pursuant to this Act or other applicable law, all patents or titles to be issued for land or interests therein to be acquired by the Federal Government and lands or interest therein to be transferred out of Federal ownership shall be issued simultaneously after the Secretary concerned has taken any necessary steps to assure that the United States will receive acceptable title.

(f) New rules and regulations; appraisal rules and regulations; "costs and other responsibilities or requirements" defined

(1) Within one year after August 20, 1988, the Secretaries of the Interior and Agriculture shall promulgate new and comprehensive rules and regulations governing exchanges of land and interests therein pursuant to this Act and other applicable law. Such rules and regulations shall fully reflect the changes in law made by subsections (d) through (i) of this section and shall include provisions pertaining to appraisals of lands and interests therein involved in such exchanges.

(2) The provisions of the rules and regulations issued pursuant to paragraph (1) of this subsection governing appraisals shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions: *Provided, however,* That the provisions of such rules and regulations shall—

(A) ensure that the same nationally approved appraisal standards are used in appraising lands or interest therein being acquired by the Federal Government and appraising lands or interests therein being transferred out of Federal ownership; and

(B) with respect to costs or other responsibilities or requirements associated with land exchanges—

(i) recognize that the parties involved in an exchange may mutually agree that one party (or parties) will assume, without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties; and

(ii) also permit the Secretary concerned, where such Secretary determines it is in the public interest and it is in the best interest

of consummating an exchange pursuant to this Act or other applicable law, and upon mutual agreement of the parties, to make adjustments to the relative values involved in an exchange transaction in order to compensate a party or parties to the exchange for assuming costs or other responsibilities or requirements which would ordinarily be borne by the other party or parties.

As used in this subparagraph, the term "costs or other responsibilities or requirements" shall include, but not be limited to, costs or other requirements associated with land surveys and appraisals, mineral examinations, title searches, archeological surveys and salvage, removal of encumbrances, arbitration pursuant to subsection (d) of this section, curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes. Prior to making any adjustments pursuant to this subparagraph, the Secretary concerned shall be satisfied that the amount of such adjustment is reasonable and accurately reflects the approximate value of any costs or services provided or any responsibilities or requirements assumed.

(g) Exchanges to proceed under existing laws and regulations pending new rules and regulations

Until such time as new and comprehensive rules and regulations governing exchange of land and interests therein are promulgated pursuant to subsection (f) of this section, land exchanges may proceed in accordance with existing laws and regulations, and nothing in the Act shall be construed to require any delay in, or otherwise hinder, the processing and consummation of land exchanges pending the promulgation of such new and comprehensive rules and regulations. Where the Secretary concerned and the party or parties involved in an exchange have agreed to initiate an exchange of land or interests therein prior to the day of enactment of such subsections, subsections (d) through (i) of this section shall not apply to such exchanges unless the Secretary concerned and the party or parties involved in the exchange mutually agree otherwise.

(h) Exchange of lands or interests of approximately equal value; conditions; "approximately equal value" defined

(1) Notwithstanding the provisions of this Act and other applicable laws which require that exchanges of land or interests therein be for equal value, where the Secretary concerned determines it is in the public interest and that the consummation of a particular exchange will be expedited thereby, the Secretary concerned may exchange lands or interests therein which are of approximately equal value in cases where—

(A) the combined value of the lands or interests therein to be transferred from Federal ownership by the Secretary concerned in such exchange is not more than \$150,000; and

(B) the Secretary concerned finds in accordance with the regulations to be promulgated

¹ So in original. Probably should be "subsection."

pursuant to subsection (f) of this section that a determination of approximately equal value can be made without formal appraisals, as based on a statement of value made by a qualified appraiser and approved by an authorized officer; and

(C) the definition of and procedure for determining “approximately equal value” has been set forth in regulations by the Secretary concerned and the Secretary concerned documents how such determination was made in the case of the particular exchange involved.

(2) As used in this subsection, the term “approximately equal value” shall have the same meaning with respect to lands managed by the Secretary of Agriculture as it does in the Act of January 22, 1983 (commonly known as the “Small Tracts Act”).

(i) Segregation from appropriation under mining and public land laws

(1) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. Upon a decision not to proceed with the exchange or upon deletion of any particular parcel from the exchange offer, the Federal lands involved or deleted shall be promptly restored to their former status under the mining laws. Any segregation pursuant to this paragraph shall be subject to valid existing rights as of the date of such segregation.

(2) All non-Federal lands which are acquired by the United States through exchange pursuant to this Act or pursuant to other law applicable to lands managed by the Secretary of Agriculture shall be automatically segregated from appropriation under the public land law, including the mining laws, for ninety days after acceptance of title by the United States. Such segregation shall be subject to valid existing rights as of the date of such acceptance of title. At the end of such ninety day period, such segregation shall end and such lands shall be open to operation of the public land laws and to entry, location, and patent under the mining laws except to the extent otherwise provided by this Act or other applicable law, or appropriate actions pursuant thereto.

(Pub. L. 94-579, title II, §206, Oct. 21, 1976, 90 Stat. 2756; Pub. L. 100-409, §§3, 9, Aug. 20, 1988, 102 Stat. 1087, 1092.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), (d)(1), (e), (f)(1), (2)(B)(ii), (g), (h)(1), and (i), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Act of January 22, 1983 (commonly known as the “Small Tracts Act”), referred to in subsec. (h)(2), is Pub. L. 97-465, Jan. 12, 1983, 96 Stat. 2535, which enacted

sections 521c to 521i of Title 16, Conservation, and amended section 484a of Title 16. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-409, §3(b), inserted “concerned” after “Secretary” in first sentence.

Pub. L. 100-409, §9, inserted provision relating to waiver of cash equalization payments.

Subsec. (c). Pub. L. 100-409, §3(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Lands acquired by exchange under this section by the Secretary which are within the boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable to the National Forest System. Lands acquired by exchange by the Secretary under this section which are within the boundaries of National Park, Wildlife Refuge, Wild and Scenic Rivers, Trails, or any other System established by Act of Congress may be transferred to the appropriate agency head for administration as part of such System and in accordance with the laws, rules, and regulations applicable to such System.”

Subsecs. (d) to (i). Pub. L. 100-409, §3(a), added subsecs. (d) to (i).

Statutory Notes and Related Subsidiaries

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Pub. L. 100-409, §2, Aug. 20, 1988, 102 Stat. 1086, provided that:

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

“(1) land exchanges are a very important tool for Federal and State land managers and private landowners to consolidate Federal, State, and private holdings of land or interests in land for purposes of more efficient management and to secure important objectives including the protection of fish and wildlife habitat and aesthetic values; the enhancement of recreation opportunities; the consolidation of mineral and timber holdings for more logical and efficient development; the expansion of communities; the promotion of multiple-use values; and fulfillment of public needs;

“(2) needs for land ownership adjustments and consolidation consistently outpace available funding for land purchases by the Federal Government and thereby make land exchanges an increasingly important method of land acquisition and consolidation for both Federal and State land managers and private landowners;

“(3) the Federal Land Policy and Management Act of 1976 [Pub. L. 94-579, see Short Title note set out under section 1701 of this title] and other laws provide a basic framework and authority for land exchanges involving lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture; and

“(4) such existing laws are in need of certain revisions to streamline and facilitate land exchange procedures and expedite exchanges.

“(b) PURPOSES.—The purposes of this Act [see Short Title of 1988 Amendment note set out under section 1701 of this title] are:

“(1) to facilitate and expedite land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other laws applicable to exchanges involving lands managed by the Departments of the Interior and Agriculture by—

“(A) providing more uniform rules and regulations pertaining to land appraisals which reflect nationally recognized appraisal standards; and

“(B) establishing procedures and guidelines for the resolution of appraisal disputes.[.]

“(2) to provide sufficient resources to the Secretaries of the Interior and Agriculture to ensure that

land exchange activities can proceed consistent with the public interest; and

“(3) to require a study and report concerning improvements in the handling of certain information related to Federal and other lands.”

LAND EXCHANGE FUNDING AUTHORIZATION

Pub. L. 100-409, § 4, Aug. 20, 1988, 102 Stat. 1090, provided that: “In order to ensure that there are increased funds and personnel available to the Secretaries of the Interior and Agriculture to consider, process, and consummate land exchanges pursuant to the Federal Land Policy and Management Act of 1976 [Pub. L. 94-579, see Short Title note set out under section 1701 of this title] and other applicable law, there are hereby authorized to be appropriated for fiscal years 1989 through 1998 an annual amount not to exceed \$4,000,000 which shall be used jointly or divided among the Secretaries as they determine appropriate for the consideration, processing, and consummation of land exchanges pursuant to the Federal Land Policy and Management Act of 1976, as amended, and other applicable law. Such moneys are expressly intended by Congress to be in addition to, and not offset against, moneys otherwise annually requested by the Secretaries, and appropriated by Congress for land exchange purposes.”

SAVINGS PROVISION

Pub. L. 100-409, § 5, Aug. 20, 1988, 102 Stat. 1090, provided that: “Nothing in this Act [see Short Title of 1988 Amendment note set out under section 1701 of this title] shall be construed as amending the Alaska Native Claims Settlement Act (Public Law 92-203, as amended) [43 U.S.C. 1601 et seq.] or the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) [see Tables for classification] or as enlarging or diminishing the authority with regard to exchanges conferred upon either the Secretary of the Interior or the Secretary of Agriculture by either such Acts. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby. Nothing in this Act shall be construed to change the discretionary nature of land exchanges or to prohibit the Secretary concerned or any other party or parties involved in a land exchange from withdrawing from the exchange at any time, unless the Secretary concerned and the other party or parties specifically commit otherwise by written agreement.”

§ 1717. Qualifications of conveyees

No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States.

(Pub. L. 94-579, title II, § 207, Oct. 21, 1976, 90 Stat. 2757.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

§ 1718. Documents of conveyance; terms, covenants, etc.

The Secretary shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land ex-

changes, for which the provisions of subsection 1716(b) of this title shall apply, such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest: *Provided*, That a conveyance of lands by the Secretary, subject to such terms, covenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans: *Provided further*, That the Secretary shall not make conveyances of public lands containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans, or programs.

(Pub. L. 94-579, title II, § 208, Oct. 21, 1976, 90 Stat. 2757.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

§ 1719. Mineral interests; reservation and conveyance requirements and procedures

(a) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 1716 of this title, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that if the Secretary makes the findings specified in subsection (b) of this section, the minerals may then be conveyed together with the surface to the prospective surface owner as provided in subsection (b).

(b)(1) The Secretary, after consultation with the appropriate department or agency head, may convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, regardless of which Federal entity may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(2) Conveyance of mineral interests pursuant to this section shall be made only to the existing or proposed record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(3) Before considering an application for conveyance of mineral interests pursuant to this section—

(i) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be

conveyed, and preparing and issuing the documents of conveyance: *Provided*, That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(ii) the applicant, with the consent of the Secretary, shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(4) Moneys paid to the Secretary for administrative costs pursuant to this subsection shall be paid to the agency which rendered the service and deposited to the appropriation then current.

(Pub. L. 94-579, title II, §209, Oct. 21, 1976, 90 Stat. 2757.)

§ 1720. Coordination by Secretary of the Interior with State and local governments

At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

(Pub. L. 94-579, title II, §210, Oct. 21, 1976, 90 Stat. 2758.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

§ 1721. Conveyances of public lands to States, local governments, etc.

(a) Unsurveyed islands; authorization and limitations on authority

The Secretary is authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741 as amended; 43 U.S.C. 869 et seq.), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however*, That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money or services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such is-

land so surveyed shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

(b) Omitted lands; authorization and limitations on authority

(1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act [43 U.S.C. 869 to 869-4], but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as "omitted lands"). Any such conveyance shall not be made without a survey: *Provided*, That the prospective recipient may donate money or services to the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the Secretary determines that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

(c) Conformity with land use plans and programs and coordination with State and local governments of conveyances

(1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) [42 U.S.C. 3334] and/or section 6506 of title 31 have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(2) The provisions of section 1720 of this title shall be applicable to all conveyances under this section.

(d) Applicability of other statutory requirements for authorized use of conveyed lands

The final sentence of section 1(c) of the Recreation and Public Purposes Act [43 U.S.C. 869(c)] shall not be applicable to conveyances under this section.

(e) Limitations on uses of conveyed lands

No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purpose.

(f) Applicability to lands within National Forest System, National Park System, National Wildlife Refuge System, and National Wild and Scenic Rivers System

The provisions of this section shall not apply to any lands within the National Forest System, defined in the Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

(g) Applicability to other statutory provisions authorizing sale of specific omitted lands

Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, and the Act of May 31, 1962 (76 Stat. 89), or any other Act authorizing the sale of specific omitted lands.

(Pub. L. 94-579, title II, §211, Oct. 21, 1976, 90 Stat. 2758.)

Editorial Notes

REFERENCES IN TEXT

The Recreation and Public Purposes Act, referred to in subsecs. (a) and (b)(1), is act June 14, 1926, ch. 578, 44 Stat. 741, as amended, which is classified to sections 869 to 869-4 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 869 of this title and Tables.

Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), referred to in subsec. (f), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, known as the Forest and Rangelands Renewable Resources Planning Act of 1974, which is classified generally to subchapter I (§1600 et seq.) chapter 36 of Title 16, Conservation. The provisions of such Act defining the lands within the National Forest System are set out in section 1609 of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of Title 16 and Tables.

Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, referred to in subsec. (g), is act Dec. 22, 1928, ch. 47, 45 Stat. 1069, as amended, which is classified generally to chapter 25A (§1068 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Act of May 31, 1962, referred to in subsec. (g), is Pub. L. 87-469, May 31, 1962, 76 Stat. 89, which is not classified to the Code.

CODIFICATION

In subsec. (c)(1), "section 6506 of title 31" substituted for "title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103-4) [42 U.S.C. 4231 et seq.]" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 1722. Sale of public lands subject to unintentional trespass

(a) Preference right of contiguous landowners; offering price

Notwithstanding the provisions of the Act of September 26, 1968 (82 Stat. 870; 43 U.S.C. 1431-1435), hereinafter called the "1968 Act", with respect to applications under the 1968 Act which were pending before the Secretary as of the effective date of this subsection and which he approves for sale under the criteria prescribed by the 1968 Act, he shall give the right of first refusal to those having a preference right under section 2 of the 1968 Act [43 U.S.C. 1432].

The Secretary shall offer such lands to such preference right holders at their fair market value (exclusive of any values added to the land by such holders and their predecessors in interest) as determined by the Secretary as of September 26, 1973.

(b) Procedures applicable

Within three years after October 21, 1976, the Secretary shall notify the filers of applications subject to paragraph (a) of this section whether he will offer them the lands applied for and at what price; that is, their fair market value as of September 26, 1973, excluding any value added to the lands by the applicants or their predecessors in interest. He will also notify the President of the Senate and the Speaker of the House of Representatives of the lands which he has determined not to sell pursuant to paragraph (a) of this section and the reasons therefor. With respect to such lands which the Secretary determined not to sell, he shall take no other action to convey those lands or interests in them before the end of ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted such notice to the Senate and House of Representatives. If, during that ninety-day period, the Congress adopts a concurrent resolution stating the length of time such suspension of action should continue, he shall continue such suspension for the specified time period. If the committee to which a resolution has been referred during the said ninety-day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the suspension of action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same suspension of action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) Time for processing of applications and sales

Within five years after October 21, 1976, the Secretary shall complete the processing of all applications filed under the 1968 Act and hold

sales covering all lands which he has determined to sell thereunder.

(Pub. L. 94-579, title II, §214, Oct. 21, 1976, 90 Stat. 2760.)

Editorial Notes

REFERENCES IN TEXT

Act of September 26, 1968, referred to in subsec. (a), is Pub. L. 90-516, Sept. 26, 1968, 82 Stat. 870, which was classified generally to subchapter VII [§1431 et seq.] of chapter 30 of this title, and was omitted from the Code pursuant to section 1435 of this title, which provided that the authority granted by that subchapter was to expire three years from September 26, 1968, with certain exceptions. For complete classification of this Act to the Code prior to omission, see Tables.

The effective date of this subsection, referred to in subsec. (a), probably means the date of the enactment of such subsection (a) by Pub. L. 94-579, which was approved Oct. 21, 1976.

§ 1723. Temporary revocation authority

(a) Exchange involved

When the sole impediment to consummation of an exchange of lands or interests therein (hereinafter referred to as an exchange) determined to be in the public interest, is the inability of the Secretary of the Interior to revoke, modify, or terminate part or all of a withdrawal or classification because of the order (or subsequent modification or continuance thereof) of the United States District Court for the District of Columbia dated February 10, 1986, in Civil Action No. 85-2238 (National Wildlife Federation v. Robert E. Burford, et al.), the Secretary of the Interior is hereby authorized, notwithstanding such order (or subsequent modification or continuance thereof), to use the authority contained herein, in lieu of other authority provided in this Act including section 1714 of this title, to revoke, modify, or terminate in whole or in part, withdrawals or classifications to the extent deemed necessary by the Secretary to enable the United States to transfer land or interests therein out of Federal ownership pursuant to an exchange.

(b) Requirements

The authority specified in subsection (a) of this section may be exercised only in cases where—

- (1) a particular exchange is proposed to be carried out pursuant to this Act, as amended, or other applicable law authorizing such an exchange;
- (2) the proposed exchange has been prepared in compliance with all laws applicable to such exchange;
- (3) the head of each Federal agency managing the lands proposed for such transfer has submitted to the Secretary of the Interior a statement of concurrence with the proposed revocation, modification, or termination;
- (4) at least sixty days have elapsed since the Secretary of the Interior has published in the Federal Register a notice of the proposed revocation, modification, or termination; and
- (5) at least sixty days have elapsed since the Secretary of the Interior has transmitted to the Committee on Natural Resources of the House of Representatives and the Committee

on Energy and Natural Resources of the United States Senate a report which includes—

(A) a justification for the necessity of exercising such authority in order to complete an exchange;

(B) an explanation of the reasons why the continuation of the withdrawal or a classification or portion thereof proposed for revocation, modification, or termination is no longer necessary for the purposes of the statutory or other program or programs for which the withdrawal or classification was made or other relevant programs;

(C) assurances that all relevant documents concerning the proposed exchange or purchase for which such authority is proposed to be exercised (including documents related to compliance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and all other applicable provisions of law) are available for public inspection in the office of the Secretary concerned located nearest to the lands proposed for transfer out of Federal ownership in furtherance of such exchange and that the relevant portions of such documents are also available in the offices of the Secretary concerned in Washington, District of Columbia; and

(D) an explanation of the effect of the revocation, modification, or termination of a withdrawal or classification or portion thereof and the transfer of lands out of Federal ownership pursuant to the particular proposed exchange, on the objectives of the land management plan which is applicable at the time of such transfer to the land to be transferred out of Federal ownership.

(c) Limitations

(1) Nothing in this section shall be construed as affirming or denying any of the allegations made by any party in the civil action specified in subsection (a), or as constituting an expression of congressional opinion with respect to the merits of any allegation, contention, or argument made or issue raised by any party in such action, or as expanding or diminishing the jurisdiction of the United States District Court for the District of Columbia.

(2) Except as specifically provided in this section, nothing in this section shall be construed as modifying, terminating, revoking, or otherwise affecting any provision of law applicable to land exchanges, withdrawals, or classifications.

(3) The availability or exercise of the authority granted in subsection (a) may not be considered by the Secretary of the Interior in making a determination pursuant to this Act or other applicable law as to whether or not any proposed exchange is in the public interest.

(d) Termination

The authority specified in subsection (a) shall expire either (1) on December 31, 1990, or (2) when the Court order (or subsequent modification or continuance thereof) specified in subsection (a) is no longer in effect, whichever occurs first.

(Pub. L. 94-579, title II, §215, as added Pub. L. 100-409, §10, Aug. 20, 1988, 102 Stat. 1092; amended

Pub. L. 103-437, §16(d)(2), Nov. 2, 1994, 108 Stat. 4595.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b)(1), and (c)(3), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b)(5)(C), 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.

AMENDMENTS

1994—Subsec. (b)(5). Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” before “of the House”.

Statutory Notes and Related Subsidiaries

SAVINGS PROVISION

See note set out under section 1716 of this title.

SUBCHAPTER III—ADMINISTRATION

§ 1731. Bureau of Land Management

(a) Director; appointment, qualifications, functions, and duties

The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under his jurisdiction according to the applicable provisions of this Act and any other applicable law.

(b) Statutory transfer of functions, powers and duties relating to administration of laws

Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950, the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the administration of laws which, on October 21, 1976, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. The Bureau shall administer such laws according to the provisions thereof existing as of October 21, 1976, as modified by the provisions of this Act or by subsequent law.

(c) Associate Director, Assistant Directors, and other employees; appointment and compensation

In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5 governing appointments in the competitive serv-

ice, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3¹ of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Existing regulations relating to administration of laws

Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by him through the Bureau on October 21, 1976.

(Pub. L. 94-579, title III, §301, Oct. 21, 1976, 90 Stat. 2762.)

Editorial Notes

REFERENCES IN TEXT

The provision of Reorg. Plan No. 3 of 1946 establishing the Bureau of Land Management, referred to in subsec. (a), is section 403 of such Reorg. Plan. Section 403 of Reorg. Plan No. 3 of 1946, also referred to in subsec. (b), is set out as a note under section 1 of this title.

This Act, referred to in subsecs. (a) and (b), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Reorganization Plan Numbered 3 of 1950, referred to in subsec. (b), is set out under section 1451 of this title.

The General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5.

Statutory Notes and Related Subsidiaries

USE OF APPROPRIATED FUNDS FOR PROTECTION OF LANDS AND SURVEYS OF FEDERAL LANDS IN ALASKA

Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378, provided in part: “That appropriations herein [Department of the Interior and Related Agencies Appropriations Act, 1993] made, in fiscal year 1993 and thereafter, may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska”.

§ 1732. Management of use, occupancy, and development of public lands

(a) Multiple use and sustained yield requirements applicable; exception

The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 1712 of this title when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.

(b) Easements, permits, etc., for utilization through habitation, cultivation, and development of small trade or manufacturing concerns; applicable statutory requirements

In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands, including, but not limited to, long-term leases to permit individ-

¹ So in original. Probably should be subchapter “III”.

uals to utilize public lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided*, That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 1767 of this title, withdrawals under section 1714 of this title, and, where the proposed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under section 1737(b) of this title: *Provided further*, That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public land and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section 1744, section 1782, and subsection (f) of section 1781 of this title and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

(c) Revocation or suspension provision in instrument authorizing use, occupancy or development; violation of provision; procedure applicable

The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standard or implementation plan: *Provided*, That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it: *Provided further*, That the Secretary shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: *Provided further*, That the Secretary may order an immediate temporary suspension prior to a

hearing or final administrative finding if he determines that such a suspension is necessary to protect health or safety or the environment: *Provided further*, That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

(d) Authorization to utilize certain public lands in Alaska for military purposes

(1) The Secretary of the Interior, after consultation with the Governor of Alaska, may issue to the Secretary of Defense or to the Secretary of a military department within the Department of Defense or to the Commandant of the Coast Guard a nonrenewable general authorization to utilize public lands in Alaska (other than within a conservation system unit or the Steese National Conservation Area or the White Mountains National Recreation Area) for purposes of military maneuvering, military training, or equipment testing not involving artillery firing, aerial or other gunnery, or other use of live ammunition or ordnance.

(2) Use of public lands pursuant to a general authorization under this subsection shall be limited to areas where such use would not be inconsistent with the plans prepared pursuant to section 1712 of this title. Each such use shall be subject to a requirement that the using department shall be responsible for any necessary cleanup and decontamination of the lands used, and to such other terms and conditions (including but not limited to restrictions on use of off-road or all-terrain vehicles) as the Secretary of the Interior may require to—

(A) minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved; and

(B) minimize the period and method of such use and the interference with or restrictions on other uses of the public lands involved.

(3)(A) A general authorization issued pursuant to this subsection shall not be for a term of more than three years and shall be revoked in whole or in part, as the Secretary of the Interior finds necessary, prior to the end of such term upon a determination by the Secretary of the Interior that there has been a failure to comply with its terms and conditions or that activities pursuant to such an authorization have had or might have a significant adverse impact on the resources or values of the affected lands.

(B) Each specific use of a particular area of public lands pursuant to a general authorization under this subsection shall be subject to specific authorization by the Secretary and to appropriate terms and conditions, including such as are described in paragraph (2) of this subsection.

(4) Issuance of a general authorization pursuant to this subsection shall be subject to the provisions of section 1712(f) of this title, section 3120 of title 16, and all other applicable provisions of law. The Secretary of a military department (or the Commandant of the Coast Guard) requesting such authorization shall reimburse the Secretary of the Interior for the costs of im-

plementing this paragraph. An authorization pursuant to this subsection shall not authorize the construction of permanent structures or facilities on the public lands.

(5) To the extent that public safety may require closure to public use of any portion of the public lands covered by an authorization issued pursuant to this subsection, the Secretary of the military Department concerned or the Commandant of the Coast Guard shall take appropriate steps to notify the public concerning such closure and to provide appropriate warnings of risks to public safety.

(6) For purposes of this subsection, the term "conservation system unit" has the same meaning as specified in section 3102 of title 16.

(Pub. L. 94-579, title III, §302, Oct. 21, 1976, 90 Stat. 2762; Pub. L. 100-586, Nov. 3, 1988, 102 Stat. 2980.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Mining Law of 1872, referred to in subsec. (b), 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.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100-586 added subsec. (d).

Statutory Notes and Executive Documents

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

MANAGEMENT GUIDELINES TO PREVENT WASTING OF PACIFIC YEW

For Congressional findings relating to management guidelines to prevent wasting of Pacific yew in current and future timber sales on Federal lands, see section 4801(a)(8) of Title 16, Conservation.

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with land use permits for temporary use of public lands and other associated land uses, issued under sections 1732, 1761, and 1763 to 1771 of this title, with respect to pre-construction, construction, and initial operation of transportation systems for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for the 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(e), 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.

§ 1733. Enforcement authority

(a) Regulations for implementation of management, use, and protection requirements; violations; criminal penalties

The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than \$1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18.

(b) Civil actions by Attorney General for violations of regulations; nature of relief; jurisdiction

At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

(c) Contracts for enforcement of Federal laws and regulations by local law enforcement officials; procedure applicable; contract requirements and implementation

(1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or

conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) Cooperation with regulatory and law enforcement officials of any State or political subdivision in enforcement of laws or ordinances

In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

(e) Uniformed desert ranger force in California Desert Conservation Area; establishment; enforcement of Federal laws and regulations

Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 1781 of this title for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.

(f) Applicability of other Federal enforcement provisions

Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

(g) Unlawful activities

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

(Pub. L. 94-579, title III, §303, Oct. 21, 1976, 90 Stat. 2763; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), and (f), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended,

known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“United States magistrate judge” substituted for “United States magistrate” in subsec. (a) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

MODIFICATION OF REGULATIONS RELATING TO MINING OPERATIONS ON PUBLIC LANDS; POSTING OF RECLAMATION BOND FOR ALL OPERATIONS INVOLVING SIGNIFICANT SURFACE DISTURBANCE

Pub. L. 99-500, §101(h) [title I], Oct. 18, 1986, 100 Stat. 1783-242, 1783-243, and Pub. L. 99-591, §101(h) [title I], Oct. 30, 1986, 100 Stat. 3341-242, 3341-243, provided: “That regulations pertaining to mining operations on public lands conducted under the Mining Law of 1872 (30 U.S.C. 22, et seq.) and sections 302, 303, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782) shall be modified to include a requirement for the posting of reclamation bonds by operators for all operations which involve significant surface disturbance, (a) at the discretion of the authorized officer for operators who have a record of compliance with pertinent regulations concerning mining on public lands, and (b) on a mandatory basis only for operators with a history of noncompliance with the aforesaid regulations: *Provided further*, That surety bonds, third party surety bonds, or irrevocable letters of credit shall qualify as bond instruments: *Provided further*, That evidence of an equivalent bond posted with a State agency shall be accepted in lieu of a separate bond: *Provided further*, That the amount of such bonds shall be sufficient to cover the costs of reclamation as estimated by the Bureau of Land Management.”

§ 1734. Fees, charges, and commissions

(a) Authority to establish and modify

Notwithstanding any other provision of law, the Secretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the public lands and may change and abolish such fees, charges, and commissions.

(b) Deposits for payments to reimburse reasonable costs of United States

The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to such lands. The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this section “reasonable costs” include, but are not limited to, the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities. In determining whether costs are reasonable under this section, the Secretary may take into consideration actual costs (exclusive of management overhead), the monetary value of the rights or privileges sought by the applicant, the efficiency to the government processing involved, that portion of the cost incurred for the

benefit of the general public interest rather than for the exclusive benefit of the applicant, the public service provided, and other factors relevant to determining the reasonableness of the costs.

(c) Refunds

In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

(Pub. L. 94-579, title III, §304, Oct. 21, 1976, 90 Stat. 2765.)

Statutory Notes and Related Subsidiaries

FILING FEES FOR APPLICATIONS FOR NONCOMPETITIVE OIL AND GAS LEASES; STUDY AND REPORT OF RENTAL CHARGES ON OIL AND GAS LEASES

Pub. L. 97-35, title XIV, §1401(d), Aug. 13, 1981, 95 Stat. 748, provided that:

“(1) Notwithstanding any other provision of law, effective October 1, 1981, all applications for noncompetitive oil and gas leases shall be accompanied by a filing fee of not less than \$25 for each such application: *Provided*, That any increase in the filing fee above \$25 shall be established by regulation and subject to the provisions of the Act of August 31, 1951 (65 Stat. 290) [probably means title V of that Act which was classified to section 483a of former Title 31, Money and Finance and was repealed and reenacted as section 9701 of Title 31 by Pub. L. 97-258] the Act of October 20, 1976 (90 Stat. 2765) [probably should be Oct. 21, 1976, meaning this chapter] but not limited to actual costs. Such fees shall be retained as a service charge even though the application or offer may be rejected or withdrawn in whole or in part.

“(2) The Secretary of the Interior is hereby directed to conduct a study and report to Congress within one year of the date of enactment of this Act [Aug. 13, 1981], regarding the current annual rental charges on all noncompetitive oil and gas leases to investigate the feasibility and effect of raising such rentals.”

§ 1734a. Availability of excess fees

In fiscal year 1997 and thereafter, all fees, excluding mining claim fees, in excess of the fiscal year 1996 collections established by the Secretary of the Interior under the authority of section 1734 of this title for processing, recording, or documenting authorizations to use public lands or public land natural resources (including cultural, historical, and mineral) and for providing specific services to public land users, and which are not presently being covered into any Bureau of Land Management appropriation accounts, and not otherwise dedicated by law for a specific distribution, shall be made immediately available for program operations in this account and remain available until expended.

(Pub. L. 104-208, div. A, title I, §101(d) [title I], Sept. 30, 1996, 110 Stat. 3009-181, 3009-182.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1997,

and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1735. Forfeitures and deposits

(a) Credit to separate account in Treasury; appropriation and availability

Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) Expenditure of moneys collected administering Oregon and California Railroad and Coos Bay Wagon Road Grant lands

Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j),¹ shall be expended for the benefit of such land only.

(c) Refunds

If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

(Pub. L. 94-579, title III, §305, Oct. 21, 1976, 90 Stat. 2765.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (b) and (c), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), referred to in subsec. (b), probably means act Aug. 28, 1937, ch. 876, 50 Stat. 874, which was formerly classified principally to sections 1181a to 1181f of this title prior to editorial reclassification, and is now classified principally to subchapter I (§2601 et seq.) of chapter 44 of this title. Section 3 of the Act, former section 1181c of this title, was repealed by Pub. L. 94-579, title VII, §702, Oct. 21, 1976, 90 Stat. 2787. Sections 1181f-1 to 1181f-4 of this title, included within the parenthetical reference to sections 1181a to 1181j, were enacted by act May 24, 1939, ch. 144, 53 Stat. 753, and were editorially reclassified as subchapter II (§2621 et seq.) of chapter 44 of this title. Sections 1181g to 1181j of this title, also included within the parenthetical reference to sections 1181a to 1181j, were enacted by act June 24, 1954, ch. 357, 68 Stat. 270, and were editorially reclassified as subchapter III (§2631 et seq.) of chapter 44 of this title. For complete classification of these Acts to the Code, see Tables.

¹ See References in Text note below.

Statutory Notes and Related Subsidiaries

AVAILABILITY OF FUNDS FOR IMPROVEMENT, PROTECTION, OR REHABILITATION OF DAMAGED PUBLIC LANDS

Pub. L. 104-134, title I, §101(c) [title I], Apr. 26, 1996, 110 Stat. 1321-156, 1321-158; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: "That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected."

Similar provisions were contained in the following appropriation acts:

- Pub. L. 116-260, div. G, title I, Dec. 27, 2020, 134 Stat. 1479.
- Pub. L. 116-94, div. D, title I, Dec. 20, 2019, 133 Stat. 2688.
- Pub. L. 116-6, div. E, title I, Feb. 15, 2019, 133 Stat. 207.
- Pub. L. 115-141, div. G, title I, Mar. 23, 2018, 132 Stat. 637.
- Pub. L. 115-31, div. G, title I, May 5, 2017, 131 Stat. 437.
- Pub. L. 114-113, div. G, title I, Dec. 18, 2015, 129 Stat. 2527.
- Pub. L. 113-235, div. F, title I, Dec. 16, 2014, 128 Stat. 2398.
- Pub. L. 113-76, div. G, title I, Jan. 17, 2014, 128 Stat. 291.
- Pub. L. 112-74, div. E, title I, Dec. 23, 2011, 125 Stat. 987.
- Pub. L. 111-88, div. A, title I, Oct. 30, 2009, 123 Stat. 2906.
- Pub. L. 111-8, div. E, title I, Mar. 11, 2009, 123 Stat. 703.
- Pub. L. 110-161, div. F, title I, Dec. 26, 2007, 121 Stat. 2099.
- Pub. L. 109-54, title I, Aug. 2, 2005, 119 Stat. 502.
- Pub. L. 108-447, div. E, title I, Dec. 8, 2004, 118 Stat. 3042.
- Pub. L. 108-108, title I, Nov. 10, 2003, 117 Stat. 1244.
- Pub. L. 108-7, div. F, title I, Feb. 20, 2003, 117 Stat. 219.
- Pub. L. 107-63, title I, Nov. 5, 2001, 115 Stat. 418.
- Pub. L. 106-291, title I, Oct. 11, 2000, 114 Stat. 925.
- Pub. L. 106-113, div. B, §1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A-138.
- Pub. L. 105-277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-234.
- Pub. L. 105-83, title I, Nov. 14, 1997, 111 Stat. 1545.
- Pub. L. 104-208, div. A, title I, §101(d) [title I], Sept. 30, 1996, 110 Stat. 3009-181, 3009-184.
- Pub. L. 103-332, title I, Sept. 30, 1994, 108 Stat. 2501.
- Pub. L. 103-138, title I, Nov. 11, 1993, 107 Stat. 1381.
- Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1377.
- Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 992.
- Pub. L. 101-512, title I, Nov. 5, 1990, 104 Stat. 1917.
- Pub. L. 101-121, title I, Oct. 23, 1989, 103 Stat. 703.
- Pub. L. 100-446, title I, Sept. 27, 1988, 102 Stat. 1776.
- Pub. L. 100-202, §101(g) [title I], Dec. 22, 1987, 101 Stat. 1329-213, 1329-215.

§ 1736. Working capital fund

(a) Establishment; availability of fund

There is hereby established a working capital fund for the management of the public lands.

This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

(b) Initial funding; subsequent transfers

The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) Payments credited to fund; amount; advancement or reimbursement

The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) Authorization of appropriations

There is hereby authorized to be appropriated a sum not to exceed \$3,000,000 as initial capital of the working capital fund.

(Pub. L. 94-579, title III, §306, Oct. 21, 1976, 90 Stat. 2766.)

Editorial Notes

CODIFICATION

In subsec. (a), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, as amended)" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 1736a. Revolving fund derived from disposal of salvage timber

There is hereby established in the Treasury of the United States a special fund to be derived on and after October 5, 1992, from the Federal share of moneys received from the disposal of salvage timber prepared for sale from the lands under the jurisdiction of the Bureau of Land Management, Department of the Interior. The money in this fund shall be immediately available to the Bureau of Land Management without further

appropriation, for the purposes of planning and preparing salvage timber for disposal, the administration of salvage timber sales, and subsequent site preparation and reforestation.

(Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1376.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1993, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DISTRIBUTION OF RECEIPTS

Title I of Pub. L. 102-381, 106 Stat. 1376, provided in part that: "Nothing in this provision [enacting this section] shall alter the formulas currently in existence by law for the distribution of receipts for the applicable lands and timber resources."

§ 1737. Implementation provisions

(a) Investigations, studies, and experiments

The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

(b) Contracts and cooperative agreements

Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.

(c) Contributions and donations of money, services, and property

The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

(d) Recruitment of volunteers

The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

(e) Restrictions on activities of volunteers

In accepting such services of individuals as volunteers, the Secretary—

(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(f) Federal employment status of volunteers

Volunteers shall not be deemed employees of the United States except for the purposes of—

(1) the tort claims provisions of title 28;

(2) subchapter 1¹ of chapter 81 of title 5; and

(3) claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, in which case the provisions of section 3721 of title 31 shall apply.

(g) Authorization of appropriations

Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than \$250,000 may be appropriated for any one fiscal year.

(Pub. L. 94-579, title III, §307, Oct. 21, 1976, 90 Stat. 2766; Pub. L. 98-540, §2, Oct. 24, 1984, 98 Stat. 2718; Pub. L. 101-286, title II, §204(c), May 9, 1990, 104 Stat. 175.)

Editorial Notes

AMENDMENTS

1990—Subsec. (f). Pub. L. 101-286 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "Volunteers shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28 and subchapter 1 of chapter 81 of title 5, relating to compensation for work injuries."

1984—Subsecs. (d) to (g). Pub. L. 98-540 added subsecs. (d) to (g).

§ 1738. Contracts for surveys and resource protection; renewals; funding requirements

(a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

(Pub. L. 94-579, title III, §308, Oct. 21, 1976, 90 Stat. 2767.)

§ 1739. Advisory councils

(a) Establishment; membership; operation

The Secretary shall establish advisory councils of not less than ten and not more than fifteen members appointed by him from among

¹ So in original. Probably should be subchapter "I".

persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (86 Stat. 770).

(b) Meetings

Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least once a year with such meetings being called by the Secretary.

(c) Travel and per diem payments

Members of advisory councils shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

(d) Functions

An advisory council may furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

(e) Public participation; procedures applicable

In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands.

(Pub. L. 94-579, title III, §309, Oct. 21, 1976, 90 Stat. 2767; Pub. L. 95-514, §13, Oct. 25, 1978, 92 Stat. 1808.)

Editorial Notes

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.

This Act, referred to in subsec. (e), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-514 substituted in first sentence "shall establish" for "is authorized to establish".

Statutory Notes and Related Subsidiaries

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.

§ 1740. Rules and regulations

The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public lands, and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, without regard to section 553(a)(2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practical.

(Pub. L. 94-579, title III, §310, Oct. 21, 1976, 90 Stat. 2767.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

§ 1741. Annual reports

(a) Purpose; time for submission

For the purpose of providing information that will aid Congress in carrying out its oversight responsibilities for public lands programs and for other purposes, the Secretary shall prepare a report in accordance with subsections (b) and (c) and submit it to the Congress no later than one hundred and twenty days after the end of each fiscal year beginning with the report for fiscal year 1979.

(b) Format

A list of programs and specific information to be included in the report as well as the format of the report shall be developed by the Secretary after consulting with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and shall be provided to the committees prior to the end of the second quarter of each fiscal year.

(c) Contents

The report shall include, but not be limited to, program identification information, program evaluation information, and program budgetary information for the preceding current and succeeding fiscal years.

(Pub. L. 94-579, title III, §311, Oct. 21, 1976, 90 Stat. 2768; Pub. L. 103-437, §16(d)(3), Nov. 2, 1994, 108 Stat. 4595.)

Editorial Notes

AMENDMENTS

1994—Subsec. (b), Pub. L. 103-437 substituted “Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate” for “Committees on Interior and Insular Affairs of the House and Senate”.

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the 9th item on page 112 identifies a reporting provision which, as subsequently amended, is contained in this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 1742. Search, rescue, and protection forces; emergency situations authorizing hiring

Where in his judgment sufficient search, rescue, and protection forces are not otherwise available, the Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased persons or persons seriously ill or injured to the nearest place where interested parties or local authorities are located.

(Pub. L. 94-579, title III, §312, Oct. 21, 1976, 90 Stat. 2768.)

§ 1742a. Good Samaritan Search and Recovery Act

(a) Definitions

In this section:

(1) Eligible

The term “eligible”, with respect to an organization or individual, means that the organization or individual, respectively, is—

- (A) acting in a not-for-profit capacity; and
- (B) composed entirely of members who, at the time of the good Samaritan search-and-recovery mission, have attained the age of majority under the law of the State where the mission takes place.

(2) Good Samaritan search-and-recovery mission

The term “good Samaritan search-and-recovery mission” means a search conducted by an eligible organization or individual for 1 or more missing individuals believed to be deceased at the time that the search is initiated.

(3) Secretary

The term “Secretary” means the Secretary or the Secretary of Agriculture, as applicable.

(b) Process

(1) In general

Each Secretary shall develop and implement a process to expedite access to Federal land

under the administrative jurisdiction of the Secretary for eligible organizations and individuals to request access to Federal land to conduct good Samaritan search-and-recovery missions.

(2) Inclusions

The process developed and implemented under this subsection shall include provisions to clarify that—

- (A) an eligible organization or individual granted access under this section—
 - (i) shall be acting for private purposes; and
 - (ii) shall not be considered to be a Federal volunteer;

(B) an eligible organization or individual conducting a good Samaritan search-and-recovery mission under this section shall not be considered to be a volunteer under section 102301(c) of title 54;

(C) chapter 171 of title 28 (commonly known as the “Federal Tort Claims Act”) shall not apply to an eligible organization or individual carrying out a privately requested good Samaritan search-and-recovery mission under this section; and

(D) chapter 81 of title 5 (commonly known as the “Federal Employees Compensation Act”) shall not apply to an eligible organization or individual conducting a good Samaritan search-and-recovery mission under this section, and the conduct of the good Samaritan search-and-recovery mission shall not constitute civilian employment.

(c) Release of Federal Government from liability

The Secretary shall not require an eligible organization or individual to have liability insurance as a condition of accessing Federal land under this section, if the eligible organization or individual—

(1) acknowledges and consents, in writing, to the provisions described in subparagraphs (A) through (D) of subsection (b)(2); and

(2) signs a waiver releasing the Federal Government from all liability relating to the access granted under this section and agrees to indemnify and hold harmless the United States from any claims or lawsuits arising from any conduct by the eligible organization or individual on Federal land.

(d) Approval and denial of requests

(1) In general

The Secretary shall notify an eligible organization or individual of the approval or denial of a request by the eligible organization or individual to carry out a good Samaritan search-and-recovery mission under this section by not later than 48 hours after the request is made.

(2) Denials

If the Secretary denies a request from an eligible organization or individual to carry out a good Samaritan search-and-recovery mission under this section, the Secretary shall notify the eligible organization or individual of—

- (A) the reason for the denial of the request; and
- (B) any actions that the eligible organization or individual can take to meet the requirements for the request to be approved.

(e) Partnerships

Each Secretary shall develop search-and-recovery-focused partnerships with search-and-recovery organizations—

(1) to coordinate good Samaritan search-and-recovery missions on Federal land under the administrative jurisdiction of the Secretary; and

(2) to expedite and accelerate good Samaritan search-and-recovery mission efforts for missing individuals on Federal land under the administrative jurisdiction of the Secretary.

(f) Report

Not later than 180 days after March 12, 2019, the Secretaries shall submit to Congress a joint report describing—

(1) plans to develop partnerships described in subsection (e)(1); and

(2) efforts carried out to expedite and accelerate good Samaritan search-and-recovery mission efforts for missing individuals on Federal land under the administrative jurisdiction of each Secretary pursuant to subsection (e)(2).

(Pub. L. 116-9, title IX, §9002, Mar. 12, 2019, 133 Stat. 830.)

Editorial Notes

CODIFICATION

Section was enacted as part of the John D. Dingell, Jr. Conservation, Management, and Recreation Act, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITION OF “SECRETARY”

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 116-9, set out as a note under section 1 of Title 16, Conservation.

§ 1743. Disclosure of financial interests by officers or employees**(a) Annual written statement; availability to public**

Each officer or employee of the Secretary and the Bureau who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit, lease, or right-of-way under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act,

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) Implementation of requirements

The Secretary shall—

(1) act within ninety days after October 21, 1976—

(A) to define the term “known financial interests” for the purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements spec-

ified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Exempted personnel

In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Violations; criminal penalties

Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

(Pub. L. 94-579, title III, §313, Oct. 21, 1976, 90 Stat. 2768.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to the requirement that the Secretary report to Congress on June 1 of each calendar year, 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 the 2nd item on page 108 of House Document No. 103-7.

§ 1744. Recordation of mining claims**(a) Filing requirements**

The owner of an unpatented lode or placer mining claim located prior to October 21, 1976, shall, within the three-year period following October 21, 1976 and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after October 21, 1976 shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, on¹ a detailed report provided by section 28-1 of title 30, relating thereto.

¹ So in original. Probably should be “or”.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) Additional filing requirements

The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to October 21, 1976 shall, within the three-year period following October 21, 1976, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill or tunnel site located after October 21, 1976 shall, within ninety days after the date of location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground.

(c) Failure to file as constituting abandonment; defective or untimely filing

The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.

(d) Validity of claims, waiver of assessment, etc., as unaffected

Such recordation or application by itself shall not render valid any claim which would not be otherwise valid under applicable law. Nothing in this section shall be construed as a waiver of the assessment and other requirements of such law.

(Pub. L. 94-579, title III, §314, Oct. 21, 1976, 90 Stat. 2769.)

§ 1745. Disclaimer of interest in lands

(a) Issuance of recordable document; criteria

After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) Procedures applicable

No document or disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

(c) Construction as quit-claim deed from United States

Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

(Pub. L. 94-579, title III, §315, Oct. 21, 1976, 90 Stat. 2770.)

§ 1746. Correction of conveyance documents

The Secretary may correct patents or documents of conveyance issued pursuant to section 1718 of this title or to other Acts relating to the disposal of public lands where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government to dispose of public lands. Any corrections authorized by this section which affect the boundaries of, or jurisdiction over, land administered by another Federal agency shall be made only after consultation with, and the approval of, the head of such other agency.

(Pub. L. 94-579, title III, §316, Oct. 21, 1976, 90 Stat. 2770; Pub. L. 108-7, div. F, title IV, §411(e), Feb. 20, 2003, 117 Stat. 291.)

Editorial Notes

AMENDMENTS

2003—Pub. L. 108-7 inserted at end “Any corrections authorized by this section which affect the boundaries of, or jurisdiction over, land administered by another Federal agency shall be made only after consultation with, and the approval of, the head of such other agency.”

§ 1747. Loans to States and political subdivisions; purposes; amounts; allocation; terms and conditions; interest rate; security; limitations; forbearance for benefit of borrowers; recordkeeping requirements; discrimination prohibited; deposit of receipts

(1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.]. Such loans shall be confined to the uses specified for the 50 per centum of mineral leasing revenues to be received by such States and subdivisions pursuant to section 35 of such Act [30 U.S.C. 191].

(2) The total amount of loans outstanding pursuant to this section for any State and political subdivisions thereof in any year shall be not more than the anticipated mineral leasing revenues to be received by that State pursuant to section 35 of the Act of February 25, 1920, as amended [30 U.S.C. 191], for the ten years following.

(3) The Secretary, after consultation with the Governors of the affected States, shall allocate such loans among the States and their political subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(4) Loans made pursuant to this section shall be subject to such terms and conditions as the Secretary determines necessary to assure the achievement of the purpose of this section. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this section no later than three months after August 20, 1978.

(5) Loans made pursuant to this section shall bear interest equivalent to the lowest interest rate paid on an issue of at least \$1,000,000 of tax exempt bonds of such State or any agency thereof within the preceding calendar year.

(6) Any loan made pursuant to this section shall be secured only by a pledge of the revenues received by the State or the political subdivision thereof pursuant to section 35 of the Act of February 25, 1920, as amended [30 U.S.C. 191], and shall not constitute an obligation upon the general property or taxing authority of such unit of government.

(7) Notwithstanding any other provision of law, loans made pursuant to this section may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program and which provides planning or public facilities otherwise eligible for assistance under this section.

(8) Nothing in this section shall be construed to preclude any forbearance¹ for the benefit of the borrower including loan restructuring, which may be determined by the Secretary as justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made pursuant to this section.

(9) Recipients of loans made pursuant to this section shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

(10) No person in the United States shall, on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or part with funds made available under this section.

(11) All amounts collected in connection with loans made pursuant to this section, including interest payments or repayments of principal on loans, fees, and other moneys, derived in connection with this section, shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 94-579, title III, §317(c), Oct. 21, 1976, 90 Stat. 2771; Pub. L. 95-352, §1(f), Aug. 20, 1978, 92 Stat. 515.)

Editorial Notes

REFERENCES IN TEXT

Act of February 25, 1920, as amended, referred to in par. (1), 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.

CODIFICATION

Section is comprised of subsec. (c) of section 317 of Pub. L. 94-579. Subsecs. (a) and (b) of section 317 of Pub. L. 94-579 are classified to section 191 of Title 30, Mineral Lands and Mining, and a note set out under that section; respectively.

AMENDMENTS

1978—Pars. (1) and (2). Pub. L. 95-352 redesignated par. (1) as pars. (1) and (2), in par. (1) struck out provisions establishing interest rate requirements, and in par. (2) struck out exception for Alaska and requirements for repayment. Former par. (2) redesignated (3).

Pars. (3) to (11). Pub. L. 95-352 redesignated former pars. (2) and (3) as (3) and (4), respectively, and added pars. (5) to (11).

§ 1748. Funding requirements

(a) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after October 1, 2002, any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of October 21, 1976 or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

(b) Procedure applicable for authorization of appropriations

Consistent with section 1110 of title 31, beginning May 15, 1977, and not later than May 15 of each second even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or

¹ So in original.

limitations imposed by any official or agency of the executive branch.

(c) Distribution of receipts from Bureau from disposal of lands, etc.

Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-Federal sources, and funds expended for emergency firefighting and rehabilitation.

(d) Purchase of certain public lands from Land and Water Conservation Fund

In exercising the authority to acquire by purchase granted by section 1715(a) of this title, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

(Pub. L. 94-579, title III, §318, Oct. 21, 1976, 90 Stat. 2771; Pub. L. 104-333, div. I, title III, §310, Nov. 12, 1996, 110 Stat. 4139.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (b), “section 1110 of title 31” substituted for “section 607 of the Congressional Budget Act of 1974 [31 U.S.C. 11c]” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-333 substituted “October 1, 2002” for “October 1, 1978”.

§ 1748a. FLAME Wildfire Suppression Reserve Funds

(a) Definitions

In this section:

(1) Federal land

The term “Federal land” means—

- (A) public land, as defined in section 1702 of this title;
- (B) units of the National Park System;
- (C) refuges of the National Wildlife Refuge System;
- (D) land held in trust by the United States for the benefit of Indian tribes or members of an Indian tribe; and
- (E) land in the National Forest System, as defined in section 1609(a) of title 16.

(2) FLAME Fund

The term “FLAME Fund” means a FLAME Wildfire Suppression Reserve Fund established by subsection (b).

(3) Relevant congressional committees

The term “relevant congressional committees” means the Committee on Appropria-

tions, the Committee on Natural Resources, and the Committee on Agriculture of the House of Representatives and the Committee on Appropriations, the Committee on Energy and Natural Resources, and the Committee on Indian Affairs of the Senate.

(4) Secretary concerned

The term “Secretary concerned” means—

(A) the Secretary of the Interior, with respect to—

(i) Federal land described in subparagraphs (A), (B), (C), and (D) of paragraph (1); and

(ii) the FLAME Fund established for the Department of the Interior; and

(B) the Secretary of Agriculture, with respect to—

(i) National Forest System land; and

(ii) the FLAME Fund established for the Department of the Agriculture.

(b) Establishment of FLAME Funds

There is established in the Treasury of the United States the following accounts:

(1) The FLAME Wildfire Suppression Reserve Fund for the Department of the Interior.

(2) The FLAME Wildfire Suppression Reserve Fund for the Department of Agriculture.

(c) Purpose of FLAME Funds

The FLAME Funds shall be available to cover the costs of large or complex wildfire events and as a reserve when amounts provided for wildfire suppression and Federal emergency response in the Wildland Fire Management appropriation accounts are exhausted.

(d) Funding

(1) Credits to funds

A FLAME Fund shall consist of the following:

(A) Such amounts as are appropriated to that FLAME Fund.

(B) Such amounts as are transferred to that FLAME Fund under paragraph (5).

(2) Authorization of appropriations

(A) Authorization of appropriations

There are authorized to be appropriated to the FLAME Funds such amounts as are necessary to carry out this section.

(B) Congressional intent

It is the intent of Congress that, for fiscal year 2011 and each fiscal year thereafter, the amounts requested by the President for a FLAME Fund should be not less than the amount estimated by the Secretary concerned as the amount necessary for that fiscal year for wildfire suppression activities of the Secretary that meet the criteria specified in subsection (e)(2)(B)(i).

(C) Sense of Congress on designation of flame fund appropriations, supplemental funding request, and supplement to other suppression funding

It is the sense of Congress that for fiscal year 2011 and each fiscal year thereafter—

(i) amounts appropriated to a FLAME Fund in excess of the amount estimated by

the Secretary concerned as the amount necessary for that fiscal year for wildfire suppression activities of the Secretary that meet the criteria specified in subsection (e)(2)(B)(i) should be designated as amounts necessary to meet emergency needs;

(ii) the Secretary concerned should promptly make a supplemental request for additional funds to replenish the FLAME Fund if the Secretary determines that the FLAME Fund will be exhausted within 30 days; and

(iii) funding made available through the FLAME Fund should be used to supplement the funding otherwise appropriated to the Secretary concerned for wildfire suppression and Federal emergency response in the Wildland Fire Management appropriation accounts.

(3) Availability

Amounts in a FLAME Fund shall remain available to the Secretary concerned until expended.

(4) Notice of insufficient funds

The Secretary concerned shall notify the relevant congressional committees if the Secretary estimates that only 60 days worth of funds remain in the FLAME Fund administered by that Secretary.

(5) Transfer authority

If a FLAME Fund has insufficient funds, the Secretary concerned administering the other FLAME Fund may transfer amounts to the FLAME Fund with insufficient funds. Not more than \$100,000,000 may be transferred from a FLAME Fund during any fiscal year under this authority.

(e) Use of FLAME Fund

(1) In general

Subject to paragraphs (2) and (3), amounts in a FLAME Fund shall be available to the Secretary concerned to transfer to the Wildland Fire Management appropriation account of that Secretary to pay the costs of wildfire suppression activities of that Secretary that are separate from amounts for wildfire suppression activities annually appropriated to that Secretary under the Wildland Fire Management appropriation account of that Secretary.

(2) Declaration required

(A) In general

Amounts in a FLAME Fund shall be available for transfer under paragraph (1) only after that Secretary concerned issues a declaration that a wildfire suppression event is eligible for funding from the FLAME Fund.

(B) Declaration criteria

A declaration by the Secretary concerned under subparagraph (A) may be issued only if—

(i) in the case of an individual wildfire incident—

(I) the fire covers 300 or more acres; or

(II) the Secretary concerned determines that the fire has required an emer-

gency Federal response based on the significant complexity, severity, or threat posed by the fire to human life, property, or resources; or

(ii) the cumulative costs of wildfire suppression and Federal emergency response activities for the Secretary concerned will exceed, within 30 days, all of the amounts previously appropriated (including amounts appropriated under an emergency designation, but excluding amounts appropriated to the FLAME Fund) to the Secretary concerned for wildfire suppression and Federal emergency response.

(3) State, private, and tribal land

Use of a FLAME Fund for emergency wildfire suppression activities on State land, private land, and tribal land shall be consistent with any existing agreements in which the Secretary concerned has agreed to assume responsibility for wildfire suppression activities on the land.

(f) Treatment of anticipated and predicted activities

For fiscal year 2011 and subsequent fiscal years, the Secretary concerned shall request funds within the Wildland Fire Management appropriation account of that Secretary for regular wildfire suppression activities that do not meet the criteria specified in subsection (e)(2)(B)(i).

(g) Prohibition on other transfers

The Secretary concerned may not transfer funds from non-fire accounts to the Wildland Fire Management appropriation account of that Secretary unless amounts in the FLAME Fund of that Secretary and any amounts appropriated to that Secretary for the purpose of wildfire suppression will be exhausted within 30 days.

(h) Accounting and reports

(1) Accounting and reporting requirements

The Secretary concerned shall account and report on amounts transferred from the respective FLAME Fund in a manner that is consistent with existing National Fire Plan reporting procedures.

(2) Annual report

The Secretary concerned shall submit to the relevant congressional committees and make available to the public an annual report that—

(A) describes the obligation and expenditure of amounts transferred from the FLAME Fund; and

(B) includes any recommendations that the Secretary concerned may have to improve the administrative control and oversight of the FLAME Fund.

(3) Estimates of wildfire suppression costs to improve budgeting and funding

(A) In general

Consistent with the schedule provided in subparagraph (C), the Secretary concerned shall submit to the relevant congressional committees an estimate of anticipated wildfire suppression costs for the applicable fiscal year.

(B) Independent review

The methodology for developing the estimates under subparagraph (A) shall be subject to periodic independent review to ensure compliance with subparagraph (D).

(C) Schedule

The Secretary concerned shall submit an estimate under subparagraph (A) during—

- (i) the first week of March of each year;
- (ii) the first week of May of each year;
- (iii) the first week of July of each year; and
- (iv) if a bill making appropriations for the Department of the Interior and the Forest Service for the following fiscal year has not been enacted by September 1, the first week of September of each year.

(D) Requirements

An estimate of anticipated wildfire suppression costs shall be developed using the best available—

- (i) climate, weather, and other relevant data; and
- (ii) models and other analytic tools.

(i) Termination of authority

The authority of the Secretary concerned to use the FLAME Fund established for that Secretary shall terminate at the end of the third fiscal year in which no appropriations to, or withdrawals from, that FLAME Fund have been made for a period of three consecutive fiscal years. Upon termination of such authority, any amounts remaining in the affected FLAME Fund shall be transferred to, and made a part of, the Wildland Fire Management appropriation account of the Secretary concerned for wildland suppression activities.

(Pub. L. 111-88, div. A, title V, § 502, Oct. 30, 2009, 123 Stat. 2968.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1748a-1. Request for additional wildfire suppression funds

If the amount provided for wildfire suppression operations for that fiscal year will be exhausted within 30 calendar days, the Secretary of the Interior or the Secretary of Agriculture (as applicable), in consultation with the Director of the Office of Management and Budget, shall promptly submit a request to Congress for supplemental appropriations.

(Pub. L. 115-141, div. O, title I, § 103, Mar. 23, 2018, 132 Stat. 1060.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Wildfire Suppression Funding and Forest Management Activities Act,

and also as part of the Consolidated Appropriations Act, 2018, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1748a-2. Reporting requirements**(a) In general**

Not later than 90 days after the end of the fiscal year for which additional new budget authority is used, pursuant to section 901(b)(2)(F)(i) of title 2, as added by section 102 of this division, the Secretary of the Interior or the Secretary of Agriculture (as applicable), in consultation with the Director of the Office of Management and Budget, shall—

- (1) prepare an annual report with respect to the additional new budget authority;
- (2) submit to the Committees on Appropriations, the Budget, and Natural Resources of the House of Representatives and the Committees on Appropriations, the Budget, and Energy and Natural Resources of the Senate the annual report prepared under paragraph (1); and
- (3) make the report prepared under paragraph (1) available to the public.

(b) Components

The annual report prepared under subsection (a)(1) shall—

- (1) document obligations and outlays of the additional new budget authority for wildfire suppression operations;
- (2) identify risk-based factors that influenced management decisions with respect to wildfire suppression operations;
- (3) analyze a statistically significant sample of large fires, including an analysis for each fire of—
 - (A) cost drivers;
 - (B) the effectiveness of risk management techniques and whether fire operations strategy tracked the risk assessment;
 - (C) any resulting ecological or other benefits to the landscape;
 - (D) the impact of investments in wildfire suppression operations preparedness;
 - (E) effectiveness of wildfire suppression operations, including an analysis of resources lost versus dollars invested;
 - (F) effectiveness of any fuel treatments on fire behavior and suppression expenditures;
 - (G) levels of exposure experienced by firefighters;
 - (H) suggested corrective actions; and
 - (I) any other factors the Secretary of the Interior or Secretary of Agriculture (as applicable) determines to be appropriate;

(4) include an accounting of overall fire management and spending by the Department of the Interior or the Department of Agriculture, which shall be analyzed by fire size, cost, regional location, and other factors;

(5) describe any lessons learned in the conduct of wildfire suppression operations; and

(6) include any other elements that the Secretary of the Interior or the Secretary of Agriculture (as applicable) determines to be necessary.

(Pub. L. 115-141, div. O, title I, § 104, Mar. 23, 2018, 132 Stat. 1061.)

Editorial Notes

REFERENCES IN TEXT

Section 102 of this division, referred to in subsec. (a), means section 102 of div. O of Pub. L. 115–141.

CODIFICATION

Section was enacted as part of the Wildfire Suppression Funding and Forest Management Activities Act, and also as part of the Consolidated Appropriations Act, 2018, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1748b. Cohesive wildfire management strategy**(a) Strategy required**

Not later than one year after October 30, 2009, the Secretary of the Interior and the Secretary of Agriculture, acting jointly, shall submit to Congress a report that contains a cohesive wildfire management strategy, consistent with the recommendations described in recent reports of the Government Accountability Office regarding management strategies.

(b) Elements of strategy

The strategy required by subsection (a) shall provide for—

- (1) the identification of the most cost-effective means for allocating fire management budget resources;
- (2) the reinvestment in non-fire programs by the Secretary of the Interior and the Secretary of Agriculture;
- (3) employing the appropriate management response to wildfires;
- (4) assessing the level of risk to communities;
- (5) the allocation of hazardous fuels reduction funds based on the priority of hazardous fuels reduction projects;
- (6) assessing the impacts of climate change on the frequency and severity of wildfire; and
- (7) studying the effects of invasive species on wildfire risk.

(c) Revision

At least once during each five-year period beginning on the date of the submission of the cohesive wildfire management strategy under subsection (a), the Secretary of the Interior and the Secretary of Agriculture shall revise the strategy to address any changes affecting the strategy, including changes with respect to landscape, vegetation, climate, and weather.

(Pub. L. 111–88, div. A, title V, § 503, Oct. 30, 2009, 123 Stat. 2971.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Executive Documents

EX. ORD. NO. 13855. PROMOTING ACTIVE MANAGEMENT OF AMERICA'S FORESTS, RANGELANDS, AND OTHER FEDERAL LANDS TO IMPROVE CONDITIONS AND REDUCE WILDFIRE RISK

Ex. Ord. No. 13855, Dec. 21, 2018, 84 F.R. 45, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. It is the policy of the United States to protect people, communities, and watersheds, and to promote healthy and resilient forests, rangelands, and other Federal lands by actively managing them through partnerships with States, tribes, communities, non-profit organizations, and the private sector. For decades, dense trees and undergrowth have amassed in these lands, fueling catastrophic wildfires. These conditions, along with insect infestation, invasive species, disease, and drought, have weakened our forests, rangelands, and other Federal lands, and have placed communities and homes at risk of damage from catastrophic wildfires.

Active management of vegetation is needed to treat these dangerous conditions on Federal lands but is often delayed due to challenges associated with regulatory analysis and current consultation requirements. In addition, land designations and policies can reduce emergency responder access to Federal land and restrict management practices that can promote wildfire-resistant landscapes. With the same vigor and commitment that characterizes our efforts to fight wildfires, we must actively manage our forests, rangelands, and other Federal lands to improve conditions and reduce wildfire risk.

In recognition of these regulatory, policy, and coordinating challenges, the Secretary of the Interior and the Secretary of Agriculture (the Secretaries) each shall implement the following policies in their respective departments:

(a) **Shared Management Priorities.** The goal of Federal fire management policy for forests, rangelands, and other Federal lands shall be to agree on a set of shared priorities with Federal land managers, States, tribes, and other landowners to manage fire risk across landscapes.

(b) **Coordinating Federal, State, Tribal, and Local Assets.** Wildfire prevention and suppression and post-wildfire restoration require a variety of assets and skills across landscapes. Federal, State, tribal, and local governments should coordinate the deployment of appropriate assets and skills to restore our landscapes and communities after damage caused by fires and to help reduce hazardous fuels through active forest management in order to protect communities, critical infrastructure, and natural and cultural resources.

(c) **Removing Hazardous Fuels, Increasing Active Management, and Supporting Rural Economies.** Post-fire assessments show that reducing vegetation through hazardous fuel management and strategic forest health treatments is effective in reducing wildfire severity and loss. Actions must be taken across landscapes to prioritize treatments in order to enhance fuel reduction and forest-restoration projects that protect life and property, and to benefit rural economies through encouraging utilization of the by-products of forest restoration.

SEC. 2. Goals. (a) To protect communities and watersheds, to better prevent catastrophic wildfires, and to improve the health of America's forests, rangelands, and other Federal lands, the Secretaries shall each develop goals and implementation plans for wildfire prevention activities and programs in their respective departments. In the development of such goals and plans:

(i) The Secretary of the Interior shall review the Secretary's 2019 budget justifications and give all due consideration to establishing the following objectives for 2019, as feasible and appropriate in light of those budget justifications, and consistent with applicable law and available appropriations:

(A) Treating 750,000 acres of Department of the Interior (DOI)-administered lands to reduce fuel loads;

(B) Treating 500,000 acres of DOI-administered lands to protect water quality and mitigate severe flooding and erosion risks arising from forest fires;

(C) Treating 750,000 acres of DOI-administered lands for native and invasive species;

(D) Reducing vegetation giving rise to wildfire conditions through forest health treatments by increasing health treatments as part of DOI's offering for sale 600 million board feet of timber from DOI-administered lands; and

(E) Performing maintenance on public roads needed to provide access for emergency services and restoration work; and

(ii) The Secretary of Agriculture shall review the Secretary's 2019 budget justifications and give all due consideration to establishing the following objectives for 2019, as feasible and appropriate in light of those budget justifications, and consistent with applicable law and available appropriations:

(A) Treating 3.5 million acres of Department of Agriculture (USDA) Forest Service (FS) lands to reduce fuel load;

(B) Treating 2.2 million acres of USDA FS lands to protect water quality and mitigate severe flooding and erosion risks arising from forest fires;

(C) Treating 750,000 acres of USDA FS lands for native and invasive species;

(D) Reducing vegetation giving rise to wildfire conditions through forest health treatments by increasing health treatments as part of USDA's offering for sale at least 3.8 billion board feet of timber from USDA FS lands; and

(E) Performing maintenance on roads needed to provide access on USDA FS lands for emergency services and restoration work.

(b) For the years following establishment of the objectives in subsection (a) of this section, the Secretaries shall consider annual treatment objectives that meet or exceed those established in subsection (a) of this section, using the full range of available and appropriate management tools, including prescribed burns and mechanical thinning. The Secretaries shall also refine and develop performance metrics to better capture the risk reduction benefits achieved through application of these management tools.

(c) In conjunction with establishment of goals, and by no later than March 31, 2019, the Secretaries shall identify salvage and log recovery options from lands damaged by fire during the 2017 and 2018 fire seasons, insects, or disease.

SEC. 3. *Coordination and Efficient Processes.* Effective Federal agency coordination and efficient administrative actions and decisions are essential to improving the condition of America's forests, rangelands, and other Federal lands. To advance the policies set forth in this order and the goals set by the Secretaries, the Secretaries shall:

(a) Coordinate with the heads of all relevant Federal agencies to prioritize and promptly implement post-wildfire rehabilitation, salvage, and forest restoration;

(b) Streamline agency administrative and regulatory processes and policies relating to fuel reduction in forests, rangelands, and other Federal lands and forest restoration when appropriate by:

(i) Adhering to minimum statutory and regulatory time periods, to the maximum extent practicable, for comment, consultation, and administrative review processes related to active management of forests, rangelands, and other Federal lands, including management of wildfire risks;

(ii) Using all applicable categorical exclusions set forth in law or regulation for fire management, restoration, and other management projects in forests, rangelands, and other Federal lands when implementing the requirements of the National Environmental Policy Act [of 1969] (42 U.S.C. 4321 *et seq.*);

(iii) Consistent with applicable law, developing and using new categorical exclusions to implement active management of forests, rangelands, and other Federal lands; and

(iv) Immediately prioritizing efforts to reduce the time required to comply with consultation obligations under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

SEC. 4. *Unmanned Aerial Systems.* To reduce fire and forest health risks as described in section 1 of this

order, the Secretaries shall, in coordination with the Administrator of the Federal Aviation Administration, maximize appropriate use of unmanned aerial systems to accelerate forest management and support fire-fighting and post-fire rehabilitation in forests, rangelands, and other Federal lands.

SEC. 5. *Wildfire Strategy.* (a) In collaboration with Federal, State, tribal, and local partners, the Secretaries shall jointly develop, by December 31, 2020, a strategy to support local Federal land managers in project decision-making and inform local fire management decisions related to forests, rangelands, and other Federal lands, thereby protecting habitats and communities, and reducing risks to physical infrastructure.

(b) In developing the strategy described in subsection (a) of this section, the Secretaries shall:

(i) Identify DOI- and USDA FS-administered lands with the highest probability of catastrophic wildfires, as well as areas on those lands where there is a high probability that wildfires would threaten people, structures, or other high-value assets, in order to direct and prioritize actions to meet land management goals and to protect communities;

(ii) Examine the costs and challenges relating to management of DOI- and USDA FS-administered lands, including costs associated with wildfire suppression, implementation of applicable statutory requirements, and litigation;

(iii) Review land designations and policies that may limit active forest management and increase the risk of catastrophic wildfires;

(iv) Consider market conditions as appropriate when preparing timber sales, including biomass and biochar opportunities, and encourage export of these or similar forest-treatment products to the maximum extent permitted by law, in order to promote active forest management, mitigate wildfire risk, and encourage post-fire forest restoration;

(v) Develop recommended actions and incentives to expand uses, markets, and utilization of forest products resulting from restoration and fuel reduction projects in forests, rangelands, and other Federal lands, including biomass and small-diameter materials;

(vi) Assess how effectively Federal programs and investments support forest-product infrastructure and market access;

(vii) Identify and assess methods, including methods undertaken pursuant to section 3(b)(iv) of this order, to more effectively and efficiently streamline consultation under the Endangered Species Act;

(viii) In conjunction with the Administrator of the Environmental Protection Agency, identify methods to reduce interagency regulatory barriers, improve alignment of Federal, State, and tribal policy, and identify redundant policies and procedures to promote efficiencies in implementing the Clean Water Act of 1972 [also known as the Federal Water Pollution Control Act] (33 U.S.C. 1251 *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), and other applicable Federal environmental laws; and

(ix) Develop procedures and guidance to facilitate timely compliance with the National Environmental Policy Act.

SEC. 6. *Collaborative Partnerships.* To reduce fuel loads, restore watersheds, and improve forest, rangeland, and other Federal land conditions, and to utilize available expertise and efficiently deploy resources, the Secretaries shall expand collaboration with States, tribes, communities, non-profit organizations, and the private sector. Such expanded collaboration by the Secretaries shall, at a minimum, address:

(a) Supporting road activities needed to maintain forest, rangeland, and other Federal land health and to mitigate wildfire risk by expanding existing or entering into new Good Neighbor Authority agreements, consistent with applicable law; and

(b) Achieving the land management restoration goals set forth in section 2 of this order and reducing fuel loads by pursuing long-term stewardship contracts, including 20-year contracts, with States, tribes, non-prof-

it organizations, communities, and the private sector, consistent with applicable law.

SEC. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 13976. ESTABLISHING THE WILDLAND FIRE MANAGEMENT POLICY COMMITTEE

Ex. Ord. No. 13976, Jan. 14, 2021, 86 F.R. 6549, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose.* Federal wildland fire management lacks a single focal point of responsibility for policy leadership and accountability for cost controls. While executive departments and agencies (agencies) have implemented Executive Order 13855 of December 21, 2018 (Promoting Active Management of America's Forests, Rangelands, and Other Federal Lands To Improve Conditions and Reduce Wildfire Risk) [set out above], and similar Administration efforts, more must be done to continue to improve interagency coordination.

In contrast to effective ground-level coordination with States, including at the National Interagency Fire Center on suppression activity and the Wildland Fire Leadership Council (WFLC) on Federal-State policy coordination, agencies do not adequately or effectively coordinate with each other at the policy level to reduce hazardous fuels and wildfire severity. This order will ensure that agencies effectively work together in coordinating Federal wildland fire management policy to improve funding allocations for hazardous fuel projects, performance measures for suppression operations and hazardous fuels mitigation, procurement, Federal-State cooperation and cost sharing, cross-jurisdictional post-wildfire rehabilitation, monitoring of electric transmission lines and other critical infrastructure, and other functions.

SEC. 2. *Policy.* It is the policy of the United States to:

(a) Improve coordination among agencies on wildland fire management policy, implementation, and oversight issues;

(b) Reduce unnecessary duplication across the Federal Government by coordinating and consolidating existing wildland fire-related councils, working groups, and other formal cross-agency initiatives, as appropriate;

(c) Efficiently and effectively manage preparedness resources, initial attack response, extended attack and large-fire support, post-wildfire rehabilitation, and hazardous fuels at a cross-boundary, landscape scale;

(d) Promote integrated planning and procurement among agencies for Federal investments in wildland fire management infrastructure;

(e) Support workforce development and efforts to recruit, train, and retain Federal wildland firefighters to efficiently and effectively respond to wildfire on public lands, and to protect life, property, and community infrastructure; and

(f) Coordinate Federal engagement with State, local, and tribal government entities, including Federal policy positions in the WFLC.

SEC. 3. *Interagency Wildland Fire Subcabinet.* To promote efficient and effective coordination across agencies engaged in Federal wildland firefighting and to facilitate coordinated and strategic wildland fire man-

agement actions, an interagency Wildland Fire Management Policy Committee (to be known as the Wildland Fire Subcabinet) is hereby established.

(a) The Wildland Fire Subcabinet shall be co-chaired by the Secretary of Agriculture and Secretary of the Interior (Co-Chairs), and shall include the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, the Chairman of the Council on Environmental Quality (CEQ), the Director of the Office of Science and Technology Policy (OSTP), the Administrator of the Environmental Protection Agency (EPA), the Director of the National Economic Council (NEC), and the heads of such other agencies, or their designated representatives, as the Co-Chairs deem appropriate.

(b) The Wildland Fire Subcabinet shall meet quarterly.

SEC. 4. *Reducing Inefficiencies and Duplication.* Currently, several Federal wildfire-related councils, task forces, working groups, and other formal cross-agency initiatives (Federal interagency working groups) exist to address wildland fire management policy. Within 90 days of the date of this order [Jan. 14, 2021], the Wildland Fire Subcabinet shall, to the extent practicable, identify all such Federal interagency working groups and provide recommendations to the Secretary of the Interior, the Secretary of Agriculture, and the Director of the Office of Management and Budget (OMB) on coordinating and consolidating these Federal interagency working groups, as appropriate and consistent with applicable law.

SEC. 5. *Improving Wildland Fire Management Policy Coordination, Implementation, and Oversight.* Within 180 days of the date of this order, the Wildland Fire Subcabinet shall develop, publish, and implement a strategic plan addressing the issues described in this section. To implement this strategic plan, the Wildland Fire Subcabinet shall develop specific measurable goals, performance targets, and dashboard reporting for consideration by each Federal agency represented on the Wildland Fire Subcabinet, using common data standards at the wildfire and hazardous fuels program level. This strategic plan shall address the issues described below:

(a) Effectively managing preparedness resources, initial attack response, extended attack and large-fire support, post-wildfire rehabilitation, and hazardous fuels at a cross-boundary, landscape scale;

(b) Developing and adopting additional hazardous fuels performance measures that go beyond the traditional output reporting of total acreage for fuel removal to transparently demonstrate a strategic focus on projects that, by consensus agreement, pose the highest risks to life, property, and community infrastructure;

(c) Developing and adopting additional wildland fire suppression operations performance measures for large wildfires, and for aviation asset deployment, that go beyond the traditional output reporting of acres burned, dollars spent, and gallons of retardant dropped to demonstrate strategic use of high-cost human capital, equipment, and aircraft as opposed to traditional reliance on overwhelming force;

(d) Developing and adopting new technologies to bring to bear cutting-edge management of the wildland fire program to improve the safety, efficiency, and effectiveness of suppression operations;

(e) Developing and adopting data-driven decision-making in order to support infrastructure, allowing for better integration of wildland fire research and development into ground-level suppression operations and hazardous fuel mitigation;

(f) Evaluating personnel policies to ensure that they allow for the year-round availability of a well-trained firefighting force at all levels, from apprentice to incident command, and the most efficient division of responsibility between line officers and incident commanders to support wildfire response and hazardous fuels reduction;

(g) Strengthening government and industry collaboration with critical infrastructure owners and opera-

tors, including electric utilities, to better manage and mitigate risks, improve and invest in technology research and development, deploy technologies in concert with the private sector, exchange lessons learned in training and monitoring capabilities, and share operational practices;

(h) Examining regulatory and other issues that negatively impact hazardous fuel reduction and post-wildfire rehabilitation program performance, including coordination across agencies on projects requiring compliance with the National Environmental Policy Act, 42 U.S.C. 4321 et seq.;

(i) Coordinating among Federal land managers to assure efficient and consistent approaches between agencies to review and approve utility vegetation management actions to improve or maintain the reliability of the grid or reduce wildfire risk; and

(j) Developing a coordinated budget strategy that addresses the trade-offs between suppression, preparedness, post-wildfire rehabilitation, and fuels treatment to ensure a balanced commitment of resources and investment in areas at risk or affected by wildfire.

SEC. 6. *Report.* Within 1 year of the date of this order, and annually thereafter, the Wildland Fire Subcabinet shall update the Chairman of CEQ, the Director of OMB, the Director of OSTP, and the Director of the NEC on the status of the strategic plan and the specific actions identified in this order.

SEC. 7. *Administration.* The Department of Agriculture shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative support as needed for the Wildland Fire Subcabinet to implement this order. The Departments of the Interior and Agriculture shall consult with WFLC, as appropriate, to effectively carry out the requirements of this order.

SEC. 8. *Federal Advisory Committee Act.* The members of the Wildland Fire Subcabinet should, pursuant to and consistent with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in the interest of obtaining advice or recommendations for the Wildland Fire Subcabinet, use their advisory committees, as appropriate.

SEC. 9. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 1748b–1. Wildfire technology modernization

(a) Purpose

The purpose of this section is to promote the use of the best available technology to enhance the effective and cost-efficient response to wildfires—

(1) to meet applicable protection objectives; and

(2) to increase the safety of—

(A) firefighters; and

(B) the public.

(b) Definitions

In this section:

(1) Secretaries

The term “Secretaries” means—

(A) the Secretary of Agriculture; and

(B) the Secretary.

(2) Secretary concerned

The term “Secretary concerned” means—

(A) the Secretary of Agriculture, with respect to activities under the Department of Agriculture; and

(B) the Secretary, with respect to activities under the Department of the Interior.

(c) Unmanned aircraft systems

(1) Definitions

In this subsection, the terms “unmanned aircraft” and “unmanned aircraft system” have the meanings given those terms in section 44801 of title 49.

(2) Establishment of program

Not later than 180 days after March 12, 2019, the Secretary, in consultation with the Secretary of Agriculture, shall establish a research, development, and testing program, or expand an applicable existing program, to assess unmanned aircraft system technologies, including optionally piloted aircraft, across the full range of wildland fire management operations in order to accelerate the deployment and integration of those technologies into the operations of the Secretaries.

(3) Expanding use of unmanned aircraft systems on wildfires

In carrying out the program established under paragraph (2), the Secretaries, in coordination with the Federal Aviation Administration, State wildland firefighting agencies, and other relevant Federal agencies, shall enter into an agreement under which the Secretaries shall develop consistent protocols and plans for the use on wildland fires of unmanned aircraft system technologies, including for the development of real-time maps of the location of wildland fires.

(d) Location systems for wildland firefighters

(1) In general

Not later than 2 years after March 12, 2019, subject to the availability of appropriations, the Secretaries, in coordination with State wildland firefighting agencies, shall jointly develop and operate a tracking system (referred to in this subsection as the “system”) to remotely locate the positions of fire resources for use by wildland firefighters, including, at a minimum, any fire resources assigned to Federal type 1 wildland fire incident management teams.

(2) Requirements

The system shall—

(A) use the most practical and effective technology available to the Secretaries to remotely track the location of an active resource, such as a Global Positioning System;

(B) depict the location of each fire resource on the applicable maps developed under subsection (c)(3);

(C) operate continuously during the period for which any firefighting personnel are assigned to the applicable Federal wildland fire; and

(D) be subject to such terms and conditions as the Secretary concerned determines necessary for the effective implementation of the system.

(3) Operation

The Secretary concerned shall—

(A) before commencing operation of the system—

(i) conduct not fewer than 2 pilot projects relating to the operation, management, and effectiveness of the system; and

(ii) review the results of those pilot projects;

(B) conduct training, and maintain a culture, such that an employee, officer, or contractor shall not rely on the system for safety; and

(C) establish procedures for the collection, storage, and transfer of data collected under this subsection to ensure—

(i) data security; and

(ii) the privacy of wildland fire personnel.

(e) Wildland fire decision support

(1) Protocol

To the maximum extent practicable, the Secretaries shall ensure that wildland fire management activities conducted by the Secretaries, or conducted jointly by the Secretaries and State wildland firefighting agencies, achieve compliance with applicable incident management objectives in a manner that—

(A) minimizes firefighter exposure to the lowest level necessary; and

(B) reduces overall costs of wildfire incidents.

(2) Wildfire decision support system

(A) In general

The Secretaries, in coordination with State wildland firefighting agencies, shall establish a system or expand an existing system to track and monitor decisions made by the Secretaries or State wildland firefighting agencies in managing wildfires.

(B) Components

The system established or expanded under subparagraph (A) shall be able to alert the Secretaries if—

(i) unusual costs are incurred;

(ii) an action to be carried out would likely—

(I) endanger the safety of a firefighter; or

(II) be ineffective in meeting an applicable suppression or protection goal; or

(iii) a decision regarding the management of a wildfire deviates from—

(I) an applicable protocol established by the Secretaries, including the requirement under paragraph (1); or

(II) an applicable spatial fire management plan or fire management plan of the Secretary concerned.

(f) Smoke projections from active wildland fires

The Secretaries shall establish a program, to be known as the “Interagency Wildland Fire Air

Quality Response Program”, under which the Secretary concerned—

(1) to the maximum extent practicable, shall assign 1 or more air resource advisors to a type 1 incident management team managing a Federal wildland fire; and

(2) may assign 1 or more air resource advisors to a type 2 incident management team managing a wildland fire.

(g) Omitted

(h) Rapid Response Erosion Database

(1) In general

The Secretaries, in consultation with the Administrator of the National Aeronautics and Space Administration and the Secretary of Commerce, shall establish and maintain a database, to be known as the “Rapid Response Erosion Database” (referred to in this subsection as the “Database”).

(2) Open-source Database

(A) Availability

The Secretaries shall make the Database (including the original source code)—

(i) web-based; and

(ii) available without charge.

(B) Components

To the maximum extent practicable, the Database shall provide for—

(i) the automatic incorporation of spatial data relating to vegetation, soils, and elevation into an applicable map created by the Secretary concerned that depicts the changes in land-cover and soil properties caused by a wildland fire; and

(ii) the generation of a composite map that can be used by the Secretary concerned to model the effectiveness of treatments in the burned area to prevent flooding, erosion, and landslides under a range of weather scenarios.

(3) Use

The Secretary concerned shall use the Database, as applicable, in developing recommendations for emergency stabilization treatments or modifications to drainage structures to protect values-at-risk following a wildland fire.

(4) Coordination

The Secretaries may share the Database, and any results generated in using the Database, with any State or unit of local government.

(i) Predicting where wildfires will start

(1) In general

The Secretaries, in consultation with the Administrator of the National Aeronautics and Space Administration, the Secretary of Energy, and the Secretary of Commerce, through the capabilities and assets located at the National Laboratories, shall establish and maintain a system to predict the locations of future wildfires for fire-prone areas of the United States.

(2) Cooperation; components

The system established under paragraph (1) shall be based on, and seek to enhance, similar

systems in existence on March 12, 2019, including the Fire Danger Assessment System.

(3) Use in forecasts

Not later than 1 year after March 12, 2019, the Secretaries shall use the system established under paragraph (1), to the maximum extent practicable, for purposes of developing any wildland fire potential forecasts.

(4) Coordination

The Secretaries may share the system established under paragraph (1), and any results generated in using the system, with any State or unit of local government.

(j) Termination of authority

The authority provided by this section terminates on the date that is 10 years after March 12, 2019.

(k) Savings clause

Nothing in this section—

(1) requires the Secretary concerned to establish a new program, system, or database to replace an existing program, system, or database that meets the objectives of this section; or

(2) precludes the Secretary concerned from using existing or future technology that—

(A) is more efficient, safer, or better meets the needs of firefighters, other personnel, or the public; and

(B) meets the objectives of this section.

(Pub. L. 116-9, title I, §1114, Mar. 12, 2019, 133 Stat. 615.)

Editorial Notes

CODIFICATION

Section is comprised of section 1114 of Pub. L. 116-9. Subsec. (g) of section 1114 of Pub. L. 116-9 amended section 2208 of Title 15, Commerce and Trade.

Statutory Notes and Related Subsidiaries

DEFINITION OF “SECRETARY”

“Secretary” means the Secretary of the Interior, see section 2 of Pub. L. 116-9, set out as a note under section 1 of Title 16, Conservation.

§ 1748c. Bureau of Land Management Foundation

(a) Definitions

In this section:

(1) Board

The term “Board” means the Board of Directors of the Foundation established under subsection (c).

(2) Foundation

The term “Foundation” means the Bureau of Land Management Foundation established by subsection (b)(1)(A).

(3) Public land

The term “public land” has the meaning given the term “public lands” in section 1702 of this title.

(4) Secretary

The term “Secretary” means the Secretary of the Interior.

(5) Wild free-roaming horses and burros

The term “wild free-roaming horses and burros” has the meaning given the term in section 1332 of title 16.

(b) Establishment and purposes

(1) Establishment

(A) In general

There is established a foundation, to be known as the “Bureau of Land Management Foundation”.

(B) Limitation

The Foundation shall not be considered to be an agency or establishment of the United States.

(C) Tax exemption

The Foundation shall be considered to be a charitable and nonprofit corporation under section 501(c)(3) of title 26.

(2) Purposes

The purposes of the Foundation are—

(A) to encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with the activities and services of, the Bureau of Land Management;

(B) to carry out activities that advance the purposes for which public land is administered;

(C) to carry out and encourage educational, technical, scientific, and other assistance or activities that support the mission of the Bureau of Land Management; and

(D) to assist the Bureau of Land Management with challenges that could be better addressed with the support of a foundation, including—

(i) reclamation and conservation activities;

(ii) activities relating to wild free-roaming horses and burros; and

(iii) the stewardship of cultural and archaeological treasures on public land.

(c) Board of Directors

(1) Establishment

(A) In general

The Foundation shall be governed by a Board of Directors.

(B) Composition

(i) In general

The Board shall consist of not more than 9 members.

(ii) Ex-officio member

The Director of the Bureau of Land Management shall be an ex-officio, nonvoting member of the Board.

(C) Requirements

(i) Citizenship

A member appointed to the Board shall be a citizen of the United States.

(ii) Expertise

A majority of members appointed to the Board shall have education or experience relating to natural, cultural, conservation,

or other resource management, law, or research.

(iii) Diverse points of view

To the maximum extent practicable, the members of the Board shall represent diverse points of view.

(2) Date of initial appointment

Not later than 1 year after May 5, 2017, the Secretary shall appoint the initial members of the Board.

(3) Terms

(A) In general

Except as provided in subparagraph (B), a member of the Board shall be appointed for a term of 6 years.

(B) Initial appointments

The Secretary shall stagger the initial appointments to the Board, as the Secretary determines to be appropriate, in a manner that ensures that—

- (i) 1/3 of the members shall serve for a term of 2 years;
- (ii) 1/3 of the members shall serve for a term of 4 years; and
- (iii) 1/3 of the members shall serve for a term of 6 years.

(C) Vacancies

A vacancy on the Board shall be filled—

- (i) not later than 60 days after the date of the vacancy;
- (ii) in the manner in which the original appointment was made; and
- (iii) for the remainder of the term of the member vacating the Board.

(D) Removal for failure to attend meetings

(i) In general

A member of the Board may be removed from the Board by a majority vote of the Board, if the individual fails to attend 3 consecutive regularly scheduled meetings of the Board.

(ii) Requirements

A vacancy as the result of a removal under clause (i) shall be filled in accordance with subparagraph (C).

(E) Limitation

A member of the Board shall not serve more than 12 consecutive years on the Board.

(4) Chairperson

(A) In general

The Board shall elect a Chairperson from among the members of the Board.

(B) Term

The Chairperson of the Board—

- (i) shall serve as Chairperson for a 2-year term; and
- (ii) may be reelected as Chairperson while serving as a member of the Board.

(5) Quorum

A majority of the voting members of the Board shall constitute a quorum for the transaction of business of the Board.

(6) Meetings

The Board shall meet—

- (A) at the call of the Chairperson; but
- (B) not less than once each calendar year.

(7) Reimbursement of expenses

(A) In general

Serving as a member of the Board shall not constitute employment by the Federal Government for any purpose.

(B) Reimbursement

A member of the Board shall serve without pay, other than reimbursement for the actual and necessary traveling and subsistence expenses incurred in the performance of the duties of the member for the Foundation, in accordance with section 5703 of title 5.

(8) General powers

The Board may—

- (A) appoint officers and employees in accordance with paragraph (9);
- (B) adopt a constitution and bylaws consistent with the purposes of the Foundation and this section; and
- (C) carry out any other activities that may be necessary to function and to carry out this section.

(9) Officers and employees

(A) In general

No officer or employee may be appointed to the Foundation until the date on which the Board determines that the Foundation has sufficient funds to pay for the service of the officer or employee.

(B) Limitation

Appointment as an officer or employee of the Foundation shall not constitute employment by the Federal Government.

(10) Limitation and conflicts of interest

(A) Prohibition on political activity

The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(B) Limitation on participation

No member of the Board or officer or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation that affects—

- (i) the financial interests of the member of the Board, officer, or employee; or
- (ii) the interests of any corporation partnership, entity, or organization in which the member of the Board, officer, or employee—
 - (I) is an officer, director, or trustee; or
 - (II) has any direct or indirect financial interest.

(d) Powers and obligations

(1) In general

The Foundation—

- (A) shall have perpetual succession; and
- (B) may conduct business throughout the several States, territories, and possessions of the United States.

(2) Notice; service of process**(A) Designated agent**

The Foundation shall at all times maintain a designated agent in the District of Columbia authorized to accept service of process for the Foundation.

(B) Service of process

The serving of notice to, or service of process on, the agent required under this paragraph, or mailed to the business address of the agent, shall be deemed to be notice to, or the service of process on, the Foundation.

(3) Seal

The Foundation shall have an official seal, to be selected by the Board, which shall be judicially noticed.

(4) Powers

To carry out the purposes of the Foundation, the Foundation shall have, in addition to powers otherwise authorized by this section, the usual powers of a not-for-profit corporation in the District of Columbia, including the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, absolutely or in trust, of real or personal property, or any income from, or other interest in, the property;

(B) to acquire by donation, gift, devise, purchase, or exchange, and to dispose of, any real or personal property or interest in the property;

(C) to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property, unless limited by the instrument of transfer;

(D) to borrow money and issue bonds, debentures, or other debt instruments;

(E) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be held personally liable, except in a case of gross negligence;

(F)(i) to enter into contracts or other agreements with public agencies, private organizations, and persons; and

(ii) to make such payments as may be necessary to carry out the purposes of the contracts or agreements; and

(G) to carry out any activity necessary and proper to advance the purposes of the Foundation.

(5) Real property**(A) In general**

For purposes of this section, an interest in real property shall include mineral and water rights, rights-of-way, and easements, appurtenant or in gross.

(B) Acceptance

A gift, devise, or bequest of real property may be accepted by the Foundation, regardless of whether the property is encumbered, restricted, or subject to beneficial interests of a private person, if any current or future interest in the property is for the benefit of the Foundation.

(C) Declining gifts

The Foundation may, at the discretion of the Foundation, decline any gift, devise, or bequest of real property.

(D) Prohibition on condemnation

No land, water, or interest in land or water, that is owned by the Foundation shall be subject to condemnation by any State, political subdivision of a State, or agent or instrumentality of a State or political subdivision of a State.

(e) Administrative services and support**(1) Funding****(A) In general**

For the purposes of assisting the Foundation in establishing an office and meeting initial administrative, project, and other expenses, the Secretary may provide to the Foundation, from funds appropriated under subsection (j), such sums as are necessary for fiscal years 2017 and 2018.

(B) Availability of funds

Funds made available under subparagraph (A) shall remain available to the Foundation until expended for authorized purposes.

(2) Administrative expenses**(A) In general**

The Secretary may provide to the Foundation personnel, facilities, equipment, and other administrative services, subject to such limitations, terms, and conditions as the Secretary may establish.

(B) Reimbursement

The Foundation may reimburse the Secretary for any support provided under subparagraph (A), in whole or in part, and any reimbursement received by the Secretary under this subparagraph shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing the services.

(f) Volunteers

The Secretary may accept, without regard to the civil service classification laws (including regulations), the services of the Foundation, the Board, and the officers, employees, and agents of the Foundation, without compensation from the Department of the Interior, as volunteers for the performance of the functions under section 1737(d) of this title.

(g) Audits and report requirements**(1) Audits**

For purposes of section 10101 of title 36, the Foundation shall be considered to be a private corporation established under Federal law.

(2) Annual reports

At the end of each fiscal year, the Board shall submit to Congress a report that describes the proceedings and activities of the Foundation during that fiscal year, including a full and complete statement of the receipts, expenditures, and investments.

(h) United States release from liability**(1) In general**

The United States shall not be liable for any debt, default, act, or omission of the Foundation.

(2) Full faith and credit

The full faith and credit of the United States shall not extend to any obligation of the Foundation.

(i) Limitation on authority

Nothing in this section authorizes the Foundation to perform any function the authority for which is provided to the Bureau of Land Management under any other provision of law.

(j) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 115–31, div. G, title I, § 122, May 5, 2017, 131 Stat. 463.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2017, and also as part of the Consolidated Appropriations Act, 2017, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1748d. Report on wildfire, insect infestation, and disease prevention on Federal land

Not later than 180 days after December 20, 2018, and every year thereafter, the Secretary and the Secretary of Interior¹ shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Natural Resources of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Energy and Natural Resources of the Senate a jointly written report on—

(1) the number of acres of Federal land treated by the Secretary or the Secretary of the Interior for wildfire, insect infestation, or disease prevention;

(2) the number of acres of Federal land categorized as a high or extreme fire risk;

(3) the total timber production from Federal land;

(4) the number of acres and average fire intensity of wildfires affecting Federal land treated for wildfire, insect infestation, or disease prevention;

(5) the number of acres and average fire intensity of wildfires affecting Federal land not treated for wildfire, insect infestation, or disease prevention;

(6) the Federal response time for each fire on greater than 25,000 acres;

(7) the number of miles of roads and trails on Federal land in need of maintenance;

(8) the number of miles of roads on Federal land in need of decommissioning;

(9) the maintenance backlog, as of the date of the report, for roads, trails, and recreational facilities on Federal land;

(10) other measures needed to maintain, improve, or restore water quality on Federal land; and

(11) other measures needed to improve ecosystem function or resiliency on Federal land.

(Pub. L. 115–334, title VIII, § 8706, Dec. 20, 2018, 132 Stat. 4880.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Agriculture Improvement Act of 2018, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITION OF “SECRETARY”

“Secretary” means the Secretary of Agriculture, see section 2 of Pub. L. 115–334, set out as a note under section 9001 of Title 7, Agriculture.

SUBCHAPTER IV—RANGE MANAGEMENT

§ 1751. Grazing fees; feasibility study; contents; submission of report; annual distribution and use of range betterment funds; nature of distributions

(a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after October 21, 1976, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after October 21, 1976, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

(b)(1) Congress finds that a substantial amount of the Federal range lands is deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum or \$10,000,000 per annum, whichever is greater of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.) and the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C.

¹ So in original. Probably should be preceded by “the”.

1181d),¹ and on lands in National Forests in the sixteen contiguous Western States under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseeded, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332(c)² of title 42.

(2) All distributions of moneys made under subsection (b)(1) shall be in addition to distributions made under section 10 of the Taylor Grazing Act [43 U.S.C. 315i] and shall not apply to distribution of moneys made under section 11 of that Act [43 U.S.C. 315j]. The remaining moneys received by the United States as fees for grazing domestic livestock on the public lands shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 94-579, title IV, § 401(a), (b)(1), (2), Oct. 21, 1976, 90 Stat. 2772; Pub. L. 95-514, § 6(b), Oct. 25, 1978, 92 Stat. 1806.)

Editorial Notes

REFERENCES IN TEXT

The Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.), referred to in subsec. (b), is act June 28, 1934, ch. 865, 48 Stat. 1269, as amended, which is classified principally to subchapter I (§ 315 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 315 of this title and Tables.

Act of August 28, 1937, referred to in subsec. (b)(1), probably means section 4 of act Aug. 28, 1937, ch. 876, title I, 50 Stat. 875, which was formerly classified to section 1181d of this title prior to editorial reclassification as section 2603 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Subsec. (b)(2) of this section is comprised of second and third sentences of section 401(b)(2) of Pub. L. 94-579. The first sentence of such section 401(b)(2) amended section 315i(b) of this title.

AMENDMENTS

1978—Subsec. (b)(1). Pub. L. 95-514 inserted “or \$10,000,000 per annum, whichever is greater” after “50

per centum” and substituted “sixteen contiguous Western States” for “eleven contiguous Western States”.

Statutory Notes and Related Subsidiaries

CREDIT ON GRAZING FEE FOR APPROVED CONSERVATION PRACTICES

Pub. L. 116-260, div. G, title III, Dec. 27, 2020, 134 Stat. 1518, provided in part: “That notwithstanding section 33 of the Bankhead[-]Jones Farm Tenant Act (7 U.S.C. 1012), the Secretary of Agriculture, in calculating a fee for grazing on a National Grassland, may provide a credit of up to 50 percent of the calculated fee to a Grazing Association or direct permittee for a conservation practice approved by the Secretary in advance of the fiscal year in which the cost of the conservation practice is incurred, and, that the amount credited shall remain available to the Grazing Association or the direct permittee, as appropriate, in the fiscal year in which the credit is made and each fiscal year thereafter for use on the project for conservation practices approved by the Secretary”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 116-94, div. D, title III, Dec. 20, 2019, 133 Stat. 2725.

Pub. L. 116-6, div. E, title III, Feb. 15, 2019, 133 Stat. 242.

Pub. L. 115-141, div. G, title III, Mar. 23, 2018, 132 Stat. 671.

Pub. L. 115-31, div. G, title III, May 5, 2017, 131 Stat. 477.

MORATORIUM ON INCREASE OF GRAZING FEE FOR 1978 GRAZING YEAR

Pub. L. 95-321, July 21, 1978, 92 Stat. 394, in order to allow the Congress sufficient time to analyze the report and recommendations of the Secretaries of Interior and Agriculture under subsec. (a) of this section and to take appropriate action, provided that the 1978 grazing year fee was not to be raised by the Secretary of the Interior for the grazing of livestock on public lands nor by the Secretary of Agriculture for such grazing on lands under the jurisdiction of the Forest Service.

§ 1752. Grazing leases and permits

(a) Terms and conditions

Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on public lands issued by the Secretary under the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315 et seq.) or the Act of August 28, 1937 (50 Stat. 874, as amended; 43 U.S.C. 1181a-1181j),¹ or by the Secretary of Agriculture, with respect to lands within National Forests in the sixteen contiguous Western States, shall be for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.

(b) Terms of lesser duration

Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

¹ See References in Text note below.

² So in original. Probably means “4332(2)(C)”.

¹ See References in Text note below.

- (1) the land is pending disposal; or
- (2) the land will be devoted to a public purpose prior to the end of ten years; or
- (3) it will be in the best interest of sound land management to specify a shorter term: *Provided*, That the absence from an allotment management plan of details the Secretary concerned would like to include but which are undeveloped shall not be the basis for establishing a term shorter than ten years: *Provided further*, That the absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless the Secretary determines on a case-by-case basis that the information to be contained in such land use plan or court ordered environmental impact statement is necessary to determine whether a shorter term should be established for any of the reasons set forth in items (1) through (3) of this subsection.

(c) First priority for renewal of expiring permit or lease

(1) Renewal of expiring or transferred permit or lease

During any period in which (A) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 1712 of this title or section 1604 of title 16, (B) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the permit or lease specified by the Secretary concerned, and (C) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(2) Continuation of terms under new permit or lease

The terms and conditions in a grazing permit or lease that has expired, or was terminated due to a grazing preference transfer, shall be continued under a new permit or lease until the date on which the Secretary concerned completes any environmental analysis and documentation for the permit or lease required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

(3) Completion of processing

As of the date on which the Secretary concerned completes the processing of a grazing permit or lease in accordance with paragraph (2), the permit or lease may be canceled, suspended, or modified, in whole or in part.

(4) Environmental reviews

The Secretary concerned shall seek to conduct environmental reviews on an allotment or multiple allotment basis, to the extent practicable, if the allotments share similar ecological conditions, for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

(d) Allotment management plan requirements

All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supersede any requirement for completion of court ordered environmental impact statements prior to development and incorporation of allotment management plans. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 1753 of this title, and any State or States having lands within the area to be covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms "court ordered environmental impact statement" and "range condition" shall be defined as in the "Public Rangelands Improvement Act of 1978 [43 U.S.C. 1901 et seq.]".

(e) Omission of allotment management plan requirements and incorporation of appropriate terms and conditions; reexamination of range conditions

In all cases where the Secretary concerned has not completed an allotment management plan or determines that an allotment management plan is not necessary for management of livestock operations and will not be prepared, the Secretary concerned shall incorporate in grazing permits and leases such terms and conditions as he deems appropriate for management of the permitted or leased lands pursuant to applicable law. The Secretary concerned shall also specify therein the numbers of animals to be grazed and the seasons of use and that he may reexamine the condition of the range at any time and, if he finds on reexamination that the condition of the range requires adjustment in the amount or other aspect of grazing use, that the permittee or lessee shall adjust his use to the extent the Secretary concerned deems necessary. Such readjustment shall be put into full force and effect on the date specified by the Secretary concerned.

(f) Allotment management plan applicability to non-Federal lands; appeal rights

Allotment management plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are intermingled with, or, with the consent of the permittee or lessee involved, associated with, the Federal lands subject to the

plan. The Secretary concerned under appropriate regulations shall grant to lessees and permittees the right of appeal from decisions which specify the terms and conditions of allotment management plans. The preceding sentence of this subsection shall not be construed as limiting any other right of appeal from decisions of such officials.

(g) Cancellation of permit or lease; determination of reasonable compensation; notice

Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(h) National Environmental Policy Act of 1969

(1) In general

The issuance of a grazing permit or lease by the Secretary concerned may be categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

(A) the issued permit or lease continues the current grazing management of the allotment; and

(B) the Secretary concerned—

(i) has assessed and evaluated the grazing allotment associated with the lease or permit; and

(ii) based on the assessment and evaluation under clause (i), has determined that the allotment—

(I) with respect to public land administered by the Secretary of the Interior—

(aa) is meeting land health standards; or

(bb) is not meeting land health standards due to factors other than existing livestock grazing; or

(II) with respect to National Forest System land administered by the Secretary of Agriculture—

(aa) is meeting objectives in the applicable land and resource management plan; or

(bb) is not meeting the objectives in the applicable land resource management plan due to factors other than existing livestock grazing.

(2) Trailing and crossing

The trailing and crossing of livestock across public land and National Forest System land and the implementation of trailing and crossing practices by the Secretary concerned may be categorically excluded from the require-

ment to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(i) Priority and timing for completion of environmental analyses

The Secretary concerned, in the sole discretion of the Secretary concerned, shall determine the priority and timing for completing each required environmental analysis with respect to a grazing allotment, permit, or lease based on—

(1) the environmental significance of the grazing allotment, permit, or lease; and

(2) the available funding for the environmental analysis.

(j) Applicability of provisions to rights, etc., in or to public lands or lands in National Forests

Nothing in this Act shall be construed as modifying in any way law existing on October 21, 1976, with respect to the creation of right, title, interest or estate in or to public lands or lands in National Forests by issuance of grazing permits and leases.

(Pub. L. 94-579, title IV, §402, Oct. 21, 1976, 90 Stat. 2773; Pub. L. 95-514, §§7, 8, Oct. 25, 1978, 92 Stat. 1807; Pub. L. 113-291, div. B, title XXX, §3023, Dec. 19, 2014, 128 Stat. 3762.)

Editorial Notes

REFERENCES IN TEXT

Act of June 28, 1934, referred to in subsec. (a), is act June 28, 1934, ch. 865, 48 Stat. 1269, known as the Taylor Grazing Act, which is classified principally to subchapter I (§315 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 315 of this title and Tables.

Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), referred to in subsec. (a), probably means act Aug. 28, 1937, ch. 876, 50 Stat. 874, which was formerly classified principally to sections 1181a to 1181f of this title prior to editorial reclassification, and is now classified principally to subchapter I (§2601 et seq.) of chapter 44 of this title. Section 3 of the Act, former section 1181c of this title, was repealed by Pub. L. 94-579, title VII, §702, Oct. 21, 1976, 90 Stat. 2787. Sections 1181f-1 to 1181f-4 of this title, included within the parenthetical reference to sections 1181a to 1181j, were enacted by act May 24, 1939, ch. 144, 53 Stat. 753, and were editorially reclassified as subchapter II (§2621 et seq.) of chapter 44 of this title. Sections 1181g to 1181j of this title, also included within the parenthetical reference to sections 1181a to 1181j, were enacted by act June 24, 1954, ch. 357, 68 Stat. 270, and were editorially reclassified as subchapter III (§2631 et seq.) of chapter 44 of this title. For complete classification of these Acts to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subssecs. (c)(2), (4) and (h), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, 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 Public Rangelands Improvement Act of 1978, referred to in subsec. (d), is Pub. L. 95-514, Oct. 25, 1978, 92 Stat. 1803, which is classified principally to chapter 37 (§1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

This Act, referred to in subsec. (j), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-291, § 3023(1), designated existing provisions as par. (1) and inserted heading, substituted “During any period in which” for “So long as”, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added pars. (2) to (4).

Subsecs. (h) to (j). Pub. L. 113-291, § 3023(2), (3), added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

1978—Subsec. (a). Pub. L. 95-514, § 7(b), substituted “sixteen contiguous Western States” for “eleven contiguous Western States”.

Subsec. (b)(3). Pub. L. 95-514, § 7(a), inserted provision that absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless information therein would be necessary to determine whether a shorter term should be established for any of the specified reasons.

Subsec. (d). Pub. L. 95-514, § 8(a), struck out “, with the exceptions authorized in subsection (e) of this section, on and after October 1, 1988,” after “pursuant to this section” and inserted provisions prohibiting any requirements for completion of court ordered environmental impact statements prior to development and incorporation of allotment plans from being superseded by subsec. (d), providing for careful and considered consultation, cooperation, and coordination with certain persons, including landowners involved, district grazing advisory boards and States having lands within the covered area and for tailoring allotment management plans to the specific range condition of the covered area and periodic review thereof, authorizing the Secretary to terminate or develop the plans after review and careful and considered consultation, cooperation, and coordination with the parties involved, and defining “court ordered environmental impact statement” and “range condition”.

Subsec. (e). Pub. L. 95-514, § 8(b), substituted introductory word “In” for “Prior to October 1, 1988, or thereafter, in”.

Statutory Notes and Related Subsidiaries

GRAZING PERMIT RENEWALS

Pub. L. 108-108, title III, § 325, Nov. 10, 2003, 117 Stat. 1308, provided in part: “That beginning in November 2004, and every year thereafter, the Secretaries of the Interior and Agriculture shall report to Congress the extent to which they are completing analysis required under applicable laws prior to the expiration of grazing permits, and beginning in May 2004, and every two years thereafter, the Secretaries shall provide Congress recommendations for legislative provisions necessary to ensure all permit renewals are completed in a timely manner. The legislative recommendations provided shall be consistent with the funding levels requested in the Secretaries’ budget proposals”.

APPEALS OF REDUCTIONS IN GRAZING ALLOTMENTS ON PUBLIC RANGELAND; TIME; EFFECTIVE DATE OF REDUCTIONS; SUSPENSION PENDING FINAL ACTION ON APPEAL

Provisions requiring appeals of reductions in grazing allotments on public rangelands to be taken within a certain time period; providing that reductions of up to 10 per centum in grazing allotments are effective when so designated by the Secretary; suspending proposed reductions in excess of 10 per centum pending final action on appeals; and requiring final action on appeals to be completed within 2 years of filing of the appeal were contained in the following appropriation acts:

Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378.

Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 993.

Pub. L. 101-512, title I, Nov. 5, 1990, 104 Stat. 1917.

Pub. L. 101-121, title I, Oct. 23, 1989, 103 Stat. 704.

Pub. L. 100-446, title I, Sept. 27, 1988, 102 Stat. 1776.

Pub. L. 100-202, § 101(g) [title I], Dec. 22, 1987, 101 Stat. 1329-213, 1329-216.

Pub. L. 99-500, § 101(h) [title I], Oct. 18, 1986, 100 Stat. 1783-242, 1783-245, and Pub. L. 99-591, § 101(h) [title I], Oct. 30, 1986, 100 Stat. 3341-242, 3341-245.

Pub. L. 99-190, § 101(d) [title I], Dec. 19, 1985, 99 Stat. 1224, 1226.

Pub. L. 98-473, title I, § 101(c) [title I], Oct. 12, 1984, 98 Stat. 1837, 1840.

Pub. L. 98-146, title I, Nov. 4, 1983, 97 Stat. 921.

Pub. L. 97-394, title I, Dec. 30, 1982, 96 Stat. 1968.

Pub. L. 97-100, title I, Dec. 23, 1981, 95 Stat. 1393.

Pub. L. 96-514, title I, Dec. 12, 1980, 94 Stat. 2959.

Pub. L. 96-126, title I, Nov. 27, 1979, 93 Stat. 956.

§ 1753. Omitted

Editorial Notes

CODIFICATION

Section, Pub. L. 94-579, title IV, § 403, Oct. 21, 1976, 90 Stat. 2775; Pub. L. 95-514, § 10, Oct. 25, 1978, 92 Stat. 1808, provided for the establishment and maintenance of grazing advisory boards and expired on Dec. 31, 1985.

SUBCHAPTER V—RIGHTS-OF-WAY

§ 1761. Grant, issue, or renewal of rights-of-way

(a) Authorized purposes

The Secretary, with respect to the public lands (including public lands, as defined in section 1702(e) of this title, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818)) and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act, including part 1¹ thereof (41 Stat. 1063, 16 U.S.C. 791a-825r);²

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and

¹ So in original. Probably should be part “1”.

² So in original. The period preceding the semicolon probably should not appear.

maintained in connection with commercial recreation facilities on lands in the National Forest System; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through such lands.

(b) Procedures applicable; administration

(1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose those plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, including its effect on competition, which he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary concerned, prior to granting a right-of-way³ pursuant to this subchapter, shall require the applicant to disclose the identity of the participants in the entity, when he deems it necessary to a determination, in accordance with the provisions of this subchapter, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. Such disclosures shall include, where applicable: (A) the name and address of each partner; (B) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(3) The Secretary of Agriculture shall have the authority to administer all rights-of-way granted or issued under authority of previous Acts with respect to lands under the jurisdiction of the Secretary of Agriculture, including rights-of-way granted or issued pursuant to authority given to the Secretary of the Interior by such previous Acts.

(c) Permanent easement for water systems; issuance, preconditions, etc.

(1) Upon receipt of a written application pursuant to paragraph (2) of this subsection from an applicant meeting the requirements of this subsection, the Secretary of Agriculture shall issue a permanent easement, without a requirement for reimbursement, for a water system as described in subsection (a)(1) of this section, traversing Federal lands within the National Forest System ("National Forest Lands"), constructed and in operation or placed into operation prior to October 21, 1976, if—

(A) the traversed National Forest lands are in a State where the appropriation doctrine governs the ownership of water rights;

(B) at the time of submission of the application the water system is used solely for agricultural irrigation or livestock watering purposes;

(C) the use served by the water system is not located solely on Federal lands;

(D) the originally constructed facilities comprising such system have been in substantially continuous operation without abandonment;

(E) the applicant has a valid existing right, established under applicable State law, for water to be conveyed by the water system;

(F) a recordable survey and other information concerning the location and characteristics of the system as necessary for proper management of National Forest lands is provided to the Secretary of Agriculture by the applicant for the easement; and

(G) the applicant submits such application on or before December 31, 1996.

(2)(A) Nothing in this subsection shall be construed as affecting any grants made by any previous Act. To the extent any such previous grant of right-of-way is a valid existing right, it shall remain in full force and effect unless an owner thereof notifies the Secretary of Agriculture that such owner elects to have a water system on such right-of-way governed by the provisions of this subsection and submits a written application for issuance of an easement pursuant to this subsection, in which case upon the issuance of an easement pursuant to this subsection such previous grant shall be deemed to have been relinquished and shall terminate.

(B) Easements issued under the authority of this subsection shall be fully transferable with all existing conditions and without the imposition of fees or new conditions or stipulations at the time of transfer. The holder shall notify the Secretary of Agriculture within sixty days of any address change of the holder or change in ownership of the facilities.

(C) Easements issued under the authority of this subsection shall include all changes or modifications to the original facilities in existence as of October 21, 1976, the date of enactment of this Act.

(D) Any future extension or enlargement of facilities after October 21, 1976, shall require the issuance of a separate authorization, not authorized under this subsection.

(3)(A) Except as otherwise provided in this subsection, the Secretary of Agriculture may terminate or suspend an easement issued pursuant to this subsection in accordance with the procedural and other provisions of section 1766 of this title. An easement issued pursuant to this subsection shall terminate if the water system for which such easement was issued is used for any purpose other than agricultural irrigation or livestock watering use. For purposes of subparagraph (D) of paragraph (1) of this subsection, non-use of a water system for agricultural irrigation or livestock watering purposes for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the facilities comprising such system.

(B) Nothing in this subsection shall be deemed to be an assertion by the United States of any

³So in original. Probably should be "right-of-way".

right or claim with regard to the reservation, acquisition, or use of water. Nothing in this subsection shall be deemed to confer on the Secretary of Agriculture any power or authority to regulate or control in any manner the appropriation, diversion, or use of water for any purpose (nor to diminish any such power or authority of such Secretary under applicable law) or to require the conveyance or transfer to the United States of any right or claim to the appropriation, diversion, or use of water.

(C) Except as otherwise provided in this subsection, all rights-of-way issued pursuant to this subsection are subject to all conditions and requirements of this Act.

(D) In the event a right-of-way issued pursuant to this subsection is allowed to deteriorate to the point of threatening persons or property and the holder of the right-of-way, after consultation with the Secretary of Agriculture, refuses to perform the repair and maintenance necessary to remove the threat to persons or property, the Secretary shall have the right to undertake such repair and maintenance on the right-of-way and to assess the holder for the costs of such repair and maintenance, regardless of whether the Secretary had required the holder to furnish a bond or other security pursuant to subsection (i) of this section.

(d) Rights-of-way on certain Federal lands

With respect to any project or portion thereof that was licensed pursuant to, or granted an exemption from, part I of the Federal Power Act [16 U.S.C. 791a et seq.] which is located on lands subject to a reservation under section 24 of the Federal Power Act [16 U.S.C. 818] and which did not receive a permit, right-of-way or other approval under this section prior to October 24, 1992, no such permit, right-of-way, or other approval shall be required for continued operation, including continued operation pursuant to section 15 of the Federal Power Act [16 U.S.C. 808], of such project unless the Commission determines that such project involves the use of any additional public lands or National Forest lands not subject to such reservation.

(Pub. L. 94-579, title V, §501, Oct. 21, 1976, 90 Stat. 2776; Pub. L. 99-545, §1(b), (c), Oct. 27, 1986, 100 Stat. 3047, 3048; Pub. L. 102-486, title XXIV, §2401, Oct. 24, 1992, 106 Stat. 3096.)

Editorial Notes

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (a)(4) and (d), is act June 20, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. Part I of the Act is classified generally to subchapter I (§791a et seq.) of chapter 12 of Title 16. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

This Act, referred to in subsecs. (b)(1) and (c)(3)(C), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-486, §2401(1), inserted “(including public lands, as defined in section 1702(e) of this title, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818))”.

Subsec. (a)(4). Pub. L. 102-486, §2401(2), substituted “Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a-825r).” for “Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791)”. The substitution was made to reflect the probable intent of Congress, in the absence of closing quotations designating the provisions to be struck out.

Subsec. (d). Pub. L. 102-486, §2401(3), added subsec. (d). 1986—Subsec. (b)(3). Pub. L. 99-545, §1(c), added par. (3).

Subsec. (c). Pub. L. 99-545, §1(b), added subsec. (c).

Executive Documents

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 land use permits for other associated land uses issued under sections 1761, and 1763 to 1771 of this title, and such functions of Secretary or other official in Department of the Interior related to compliance with land use permits for temporary use of public lands and other associated land uses, issued under sections 1732, 1761, and 1763 to 1771 of this title, with respect to pre-construction, construction, and initial operation of transportation systems 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(e), (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.

§ 1761a. Streamlining the Forest Service process for consideration of communications facility location applications

(a) Definitions

In this section:

(1) Communications facility

The term “communications facility” includes—

(A) any infrastructure, including any transmitting device, tower, or support structure, and any equipment, switches, wiring, cabling, power sources, shelters, or cabinets, associated with the licensed or permitted unlicensed wireless or wireline transmission of writings, signs, signals, data, images, pictures, and sounds of all kinds; and

(B) any antenna or apparatus that—

(i) is designed for the purpose of emitting radio frequency;

(ii) is designed to be operated, or is operating, from a fixed location pursuant to authorization by the Federal Communications Commission or is using duly authorized devices that do not require individual licenses; and

(iii) is added to a tower, building, or other structure.

(2) Communications site

The term “communications site” means an area of covered land designated for communications uses.

(3) Communications use

The term “communications use” means the placement and operation of a communications facility.

(4) Communications use authorization

The term “communications use authorization” means an easement, right-of-way, lease, license, or other authorization to locate or modify a communications facility on covered land by the Forest Service for the primary purpose of authorizing the occupancy and use of the covered land for communications use.

(5) Covered land

The term “covered land” means National Forest System land.

(6) Forest Service

The term “Forest Service” means the United States Forest Service of the Department of Agriculture.

(7) Organizational unit

The term “organizational unit” means, within the Forest Service—

- (A) a regional office;
- (B) the headquarters;
- (C) a management unit; or
- (D) a ranger district office.

(b) Regulations

Notwithstanding section 1455 of title 47 or section 606 of the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (Public Law 115-141), not later than 1 year after December 20, 2018, the Secretary shall issue regulations—

- (1) to streamline the process for considering applications to locate or modify communications facilities on covered land;
- (2) to ensure, to the maximum extent practicable, that the process is uniform and standardized across the organizational units of the Forest Service; and
- (3) to require that the applications described in paragraph (1) be considered and granted on a competitively neutral, technology neutral, and non-discriminatory basis.

(c) Requirements

The regulations issued under subsection (b) shall include the following:

- (1) Procedures for the tracking of applications described in subsection (b)(1), including—
 - (A) identifying the number of applications—
 - (i) received;
 - (ii) approved; and
 - (iii) denied;
 - (B) in the case of an application that is denied, describing the reasons for the denial; and
 - (C) describing the amount of time between the receipt of an application and the issuance of a final decision on an application.

(2) Provision for minimum lease terms of not less than 15 years for leases with respect to the location of communications facilities on covered land.

(3) A structure of fees for—

(A) submitting an application described in subsection (b)(1), based on the cost to the Forest Service of considering such an application; and

(B) issuing communications use authorizations, based on the cost to the Forest Service of any maintenance or other activities required to be performed by the Forest Service as a result of the location or modification of the communications facility.

(4) Provision for prioritization or streamlining of the consideration of applications to locate or modify communications facilities on covered land in a previously disturbed right-of-way.

(d) Additional considerations

In issuing regulations under subsection (b), the Secretary shall consider—

(1) how discrete reviews in considering an application described in subsection (b)(1) can be conducted simultaneously, rather than sequentially, by any organizational units of the Forest Service that must approve the location or modification; and

(2) how to eliminate overlapping requirements among the organizational units of the Forest Service with respect to the location or modification of a communications facility on covered land administered by those organizational units.

(e) Communication of streamlined process to organizational units

The Secretary shall, with respect to the regulations issued under subsection (b)—

- (1) communicate the regulations to the organizational units of the Forest Service; and
- (2) ensure that the organizational units of the Forest Service follow the regulations.

(f) Deposit and availability of fees**(1) Special account**

The Secretary of the Treasury shall establish a special account in the Treasury for the Forest Service for the deposit of fees collected by the Forest Service under subsection (c)(3) for communications use authorizations on covered land granted, issued, or executed by the Forest Service.

(2) Requirements for fees collected

Fees collected by the Forest Service under subsection (c)(3) shall be—

- (A) collected only to the extent provided in advance in appropriations Acts;
- (B) based on the costs described in subsection (c)(3); and
- (C) competitively neutral, technology neutral, and nondiscriminatory with respect to other users of the communications site.

(3) Deposit of fees

Fees collected by the Forest Service under subsection (c)(3) shall be deposited in the special account established for the Forest Service under paragraph (1).

(4) Availability of fees

Amounts deposited in the special account for the Forest Service shall be available, to the extent and in such amounts as are provided in advance in appropriation Acts, to the Secretary to cover costs incurred by the Forest Service described in subsection (c)(3), including the following:

(A) Preparing needs assessments or other programmatic analyses necessary to designate communications sites and issue communications use authorizations.

(B) Developing management plans for communications sites.

(C) Training for management of communications sites.

(D) Obtaining or improving access to communications sites.

(5) No additional appropriations authorized

Except as provided in paragraph (4), no other amounts are authorized to be appropriated to carry out this section.

(g) Savings provisions**(1) Real property authorities**

Nothing in this section, or the amendments made by this section, shall be construed as providing any executive agency with any new leasing or other real property authorities not existing prior to December 20, 2018.

(2) Effect on other laws

Nothing in this section, or the amendments made by this section, and no actions taken pursuant to this section, or the amendments made by this section, shall impact a decision or determination by any executive agency to sell, dispose of, declare excess or surplus, lease, reuse, or redevelop any Federal real property pursuant to title 40, the Federal Assets Sale and Transfer Act of 2016 (40 U.S.C. 1303 note; Public Law 114–287), or any other law governing real property activities of the Federal Government. No agreement entered into pursuant to this section, or the amendments made by this section, may obligate the Federal Government to hold, control, or otherwise retain or use real property that may otherwise be deemed as excess, surplus, or that could otherwise be sold, leased, or redeveloped.

(Pub. L. 115–334, title VIII, §8705, Dec. 20, 2018, 132 Stat. 4878; Pub. L. 116–94, div. D, title IV, §416, Dec. 20, 2019, 133 Stat. 2746.)

Editorial Notes**REFERENCES IN TEXT**

Section 606 of the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, referred to in subsec. (b), is section 606 of div. P of Pub. L. 115–141, which amended section 1455 of Title 47, Telecommunications, and enacted provisions set out as notes under section 1455 of Title 47.

CODIFICATION

Section was enacted as part of the Agriculture Improvement Act of 2018, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

AMENDMENTS

2019—Subsec. (f)(2). Pub. L. 116–94 added par. (2) and struck out former par. (2). Prior to amendment, text

read as follows: “Fees collected by the Forest Service under subsection (c)(3) shall be—

“(A) based on the costs described in subsection (c)(3); and

“(B) competitively neutral, technology neutral, and nondiscriminatory with respect to other users of the communications site.”

Statutory Notes and Related Subsidiaries**DEFINITION OF “SECRETARY”**

“Secretary” means the Secretary of Agriculture, see section 2 of Pub. L. 115–334, set out as a note under section 9001 of Title 7, Agriculture.

§ 1762. Roads**(a) Authority to acquire, construct, and maintain; financing arrangements**

The Secretary, with respect to the public lands, is authorized to provide for the acquisition, construction, and maintenance of roads within and near the public lands 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 of such lands 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 timber and other products from the public lands, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (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 timber and other products from public lands shall not, except when the provisions of the second proviso of this subsection apply, 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: *Provided further*, That when timber is offered with the condition that the purchaser thereof will build a road or roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(b) Recordation of copies of affected instruments

Copies of all instruments affecting permanent interests in land executed pursuant to this section shall be recorded in each county where the lands are located.

(c) Maintenance or reconstruction of facilities by users

The Secretary may require the user or users of a road, trail, land, or other facility administered by him through the Bureau, including purchasers of Government timber and other products, to maintain such facilities 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 facility to re-

construct 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 purposes 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.

(d) Fund for user fees for delayed payment to grantor

Whenever the agreement under which the United States has obtained for the use of, or in connection with, the public lands 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. 94-579, title V, §502, Oct. 21, 1976, 90 Stat. 2777.)

§ 1763. Right-of-way corridors; criteria and procedures applicable for designation

In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

(Pub. L. 94-579, title V, §503, Oct. 21, 1976, 90 Stat. 2778.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal

Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Executive Documents

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 land use permits for other associated land uses issued under sections 1761, and 1763 to 1771 of this title, and such functions of Secretary or other official in Department of the Interior related to compliance with land use permits for temporary use of public lands and other associated land uses, issued under sections 1732, 1761, and 1763 to 1771 of this title, with respect to pre-construction, construction, and initial operation of transportation systems 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(e), (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.

§ 1764. General requirements

(a) Boundary specifications; criteria; temporary use of additional lands

The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) Terms and conditions of right-of-way or permit

Each right-of-way or permit granted, issued, or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

(c) Applicability of regulations or stipulations

Rights-of-way shall be granted, issued, or renewed pursuant to this subchapter under such regulations or stipulations, consistent with the

provisions of this subchapter or any other applicable law, and shall also be subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance, transfer or assignment, and termination.

(d) Submission of plan of construction, operation, and rehabilitation by new project applicants; plan requirements

The Secretary concerned prior to granting or issuing a right-of-way pursuant to this subchapter for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions required under section 1765 of this title.

(e) Regulatory requirements for terms and conditions; revision and applicability of regulations

The Secretary concerned shall issue regulations with respect to the terms and conditions that will be included in rights-of-way pursuant to section 1765 of this title. Such regulations shall be regularly revised as needed. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this subchapter and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this subchapter.

(f) Removal or use of mineral and vegetative materials

Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws or for emergency repair work necessary for those rights-of-way authorized under section 1761(c) of this title.

(g) Rental payments; amount, waiver, etc.

The holder of a right-of-way shall pay in advance the fair market value thereof, as determined by the Secretary granting, issuing, or renewing such right-of-way. The Secretary concerned may require either annual payment or a payment covering more than one year at a time except that private individuals may make at their option either annual payments or payments covering more than one year if the annual fee is greater than one hundred dollars. The Secretary concerned may waive rentals where a right-of-way is granted, issued or renewed in consideration of a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder. The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility

pursuant to such right-of-way: *Provided, however,* That the Secretary concerned need not secure reimbursement in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, or to a holder where he provides without or at reduced charges a valuable benefit to the public or to the programs of the Secretary concerned, or to a holder in connection with the authorized use or occupancy of Federal land for which the United States is already receiving compensation for such lesser charge, including free use as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. Rights-of-way shall be granted, issued, or renewed, without rental fees, for electric or telephone facilities eligible for financing pursuant to the Rural Electrification Act of 1936, as amended [7 U.S.C. 901 et seq.], determined without regard to any application requirement under that Act, or any extensions from such facilities: *Provided,* That nothing in this sentence shall be construed to affect the authority of the Secretary granting, issuing, or renewing the right-of-way to require reimbursement of reasonable administrative and other costs pursuant to the second sentence of this subsection.

(h) Liability for damage or injury incurred by United States for use and occupancy of rights-of-way; indemnification of United States; no-fault liability; amount of damages

(1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this subchapter shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(i) Bond or security requirements

Where he deems it appropriate, the Secretary concerned may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to him to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary concerned.

(j) Criteria for grant, issue, or renewal of right-of-way

The Secretary concerned shall grant, issue, or renew a right-of-way under this subchapter only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this subchapter.

(Pub. L. 94-579, title V, §504, Oct. 21, 1976, 90 Stat. 2778; Pub. L. 98-300, May 25, 1984, 98 Stat. 215; Pub. L. 99-545, §2, Oct. 27, 1986, 100 Stat. 3048; Pub. L. 104-333, div. I, title X, §1032(a), Nov. 12, 1996, 110 Stat. 4239.)

Editorial Notes

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (g), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

AMENDMENTS

1996—Subsec. (g). Pub. L. 104-333 substituted “eligible for financing pursuant to the Rural Electrification Act of 1936, as amended, determined without regard to any application requirement under that Act,” for “financed pursuant to the Rural Electrification Act of 1936, as amended.”.

1986—Subsec. (f). Pub. L. 99-545, §2(1), inserted before the period at end “or for emergency repair work necessary for those rights-of-way authorized under section 1761(c) of this title”.

Subsec. (g). Pub. L. 99-545, §2(2), substituted “The holder of a right-of-way shall pay in advance the fair market value thereof, as determined by the Secretary granting, issuing, or renewing such right-of-way. The Secretary concerned may require either annual payment or a payment covering more than one year at a time except that private individuals may make at their option either annual payments or payments covering more than one year if the annual fee is greater than one hundred dollars. The Secretary concerned may waive rentals where a right-of-way is granted, issued or renewed in consideration of a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder.” for “The holder of a right-of-way shall pay annually in advance the fair market value thereof as determined by the Secretary granting, issuing, or renewing such right-of-way: *Provided*, That when the annual rental is less than \$100, the Secretary concerned may require advance payment for more than one year at a time: *Provided further*, That the Secretary concerned may waive rentals where a right-of-way is granted, issued, or renewed in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder.”

1984—Subsec. (g). Pub. L. 98-300 inserted at end “Rights-of-way shall be granted, issued, or renewed, without rental fees, for electric or telephone facilities financed pursuant to the Rural Electrification Act of 1936, as amended, or any extensions from such facilities: *Provided*, That nothing in this sentence shall be construed to affect the authority of the Secretary granting, issuing, or renewing the right-of-way to require reimbursement of reasonable administrative and other costs pursuant to the second sentence of this subsection.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-333, div. I, title X, §1032(b), Nov. 12, 1996, 110 Stat. 4239, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to rights-of-way leases held on or after the date of enactment of this Act [Nov. 12, 1996].”

Executive Documents

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

§ 1765. Terms and conditions

Each right-of-way shall contain—

(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and

(b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto.

(Pub. L. 94-579, title V, §505, Oct. 21, 1976, 90 Stat. 2780.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in par. (a), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Executive Documents

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

§ 1766. Suspension or termination; grounds; procedures applicable

Abandonment of a right-of-way or noncompliance with any provision of this subchapter condition of the right-of-way, or applicable rule or regulation of the Secretary concerned may be

grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and, and¹ with respect to easements, an appropriate administrative proceeding pursuant to section 554 of title 5, the Secretary concerned determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary concerned determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary concerned shall give written notice to the holder of the grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this subchapter condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

(Pub. L. 94-579, title V, §506, Oct. 21, 1976, 90 Stat. 2780.)

Executive Documents

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

§ 1767. Rights-of-way for Federal departments and agencies

(a) The Secretary concerned may provide under applicable provisions of this subchapter for the use of any department or agency of the United States a right-of-way over, upon, under or through the land administered by him, subject to such terms and conditions as he may impose.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

(Pub. L. 94-579, title V, §507, Oct. 21, 1976, 90 Stat. 2781.)

Executive Documents

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

¹ So in original.

§ 1768. Conveyance of lands covered by right-of-way; terms and conditions

If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576; 30 U.S.C. 185), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this subchapter will be carried out, the terms and conditions of the right-of-way complied with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

(Pub. L. 94-579, title V, §508, Oct. 21, 1976, 90 Stat. 2781.)

Editorial Notes

REFERENCES IN TEXT

Act of November 16, 1973, referred to in text, is Pub. L. 93-153, Nov. 16, 1973, 87 Stat. 576. For complete classification of this Act to the Code, see Tables.

Executive Documents

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

§ 1769. Existing right-of-way or right-of-use unaffected; exceptions; rights-of-way for railroad and appurtenant communication facilities; applicability of existing terms and conditions

(a) Nothing in this subchapter shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this subchapter.

(b) When the Secretary concerned issues a right-of-way under this subchapter for a railroad and appurtenant communication facilities in connection with a realignment of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this subchapter, provide in the new right-of-way the same terms and conditions as applied to the portion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way

under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this subchapter.

(Pub. L. 94-579, title V, §509, Oct. 21, 1976, 90 Stat. 2781.)

Executive Documents

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

§ 1770. Applicability of provisions to other Federal laws

(a) Right-of-way

Effective on and after October 21, 1976, no right-of-way for the purposes listed in this subchapter shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this subchapter: *Provided*, That nothing in this subchapter shall be construed as affecting or modifying the provisions of sections 532 to 538 of title 16 and in the event of conflict with, or inconsistency between, this subchapter and sections 532 to 538 of title 16, the latter shall prevail: *Provided further*, That nothing in this Act should be construed as making it mandatory that, with respect to forest roads, the Secretary of Agriculture limit rights-of-way grants or their term of years or require disclosure pursuant to section 1761(b) of this title or impose any other condition contemplated by this Act that is contrary to present practices of that Secretary under sections 532 to 538 of title 16. Any pending application for a right-of-way under any other law on the effective date of this section shall be considered as an application under this subchapter. The Secretary concerned may require the applicant to submit any additional information he deems necessary to comply with the requirements of this subchapter.

(b) Highway use

Nothing in this subchapter shall be construed to preclude the use of lands covered by this subchapter for highway purposes pursuant to sections 107 and 317 of title 23.

(c) Application of antitrust laws

(1) Nothing in this subchapter shall be construed as exempting any holder of a right-of-way issued under this subchapter from any provision of the antitrust laws of the United States.

(2) For the purposes of this subsection, the term "antitrust laws" includes the Act of July 2, 1890 (26 Stat.¹ 15 U.S.C. 1 et seq.); the Act of October 15, 1914 (38 Stat. 730, 15 U.S.C. 12 et seq.); the Federal Trade Commission Act (38 Stat. 717; 15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894 [15 U.S.C. 8, 9].

(Pub. L. 94-579, title V, §510, Oct. 21, 1976, 90 Stat. 2782.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the

Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The effective date of this section, referred to in subsec. (a), probably means the date of enactment of this section by Pub. L. 94-579, which was approved Oct. 21, 1976.

Act of July 2, 1890, referred to in subsec. (c)(2), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 15, 1914, referred to in subsec. (c)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (c)(2), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Sections 73 and 74 of the Act of August 27, 1894, referred to in subsec. (c), are sections 73 and 74 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, which are classified to sections 8 and 9 of Title 15.

Executive Documents

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

§ 1771. Coordination of applications

Applicants before Federal departments and agencies other than the Department of the Interior or Agriculture seeking a license, certificate, or other authority for a project which involve a right-of-way over, upon, under, or through public land or National Forest System lands must simultaneously apply to the Secretary concerned for the appropriate authority to use public lands or National Forest System lands and submit to the Secretary concerned all information furnished to the other Federal department or agency.

(Pub. L. 94-579, title V, §511, Oct. 21, 1976, 90 Stat. 2782.)

Executive Documents

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

§ 1772. Vegetation management,¹ facility inspection, and operation and maintenance relating to electric transmission and distribution facility rights of way

(a) Definitions

In this section:

(1) Hazard tree

The term "hazard tree" means any tree or part thereof (whether located inside or outside a right-of-way) that has been designated, prior to tree failure, by a certified or licensed arborist or forester under the supervision of

¹ So in original. Probably should be followed by "209".

¹ So in original. Probably should be "management,".

the Secretary concerned or the owner or operator of a transmission or distribution facility to be—

(A) dead, likely to die within the routine vegetation management cycle, or likely to fail within the routine vegetation management cycle; and

(B) if the tree or part of the tree failed, likely to—

(i) cause substantial damage or disruption to a transmission or distribution facility; or

(ii) come within 10 feet of an electric power line.

(2) Owner; operator

The terms “owner” and “operator” include contractors or other agents engaged by the owner or operator of an electric transmission or distribution facility.

(3) Plan

The term “plan” means a vegetation management, facility inspection, and operation and maintenance plan that—

(A) is prepared by the owner or operator of 1 or more electric transmission or distribution facilities to cover 1 or more electric transmission and distribution rights-of-way; and

(B) provides for the long-term, cost-effective, efficient, and timely management of facilities and vegetation within the width of the right-of-way and abutting Federal land, including hazard trees, to enhance electric reliability, promote public safety, and avoid fire hazards.

(4) Secretary concerned

The term “Secretary concerned” means—

(A) the Secretary, with respect to public lands; and

(B) the Secretary of Agriculture, with respect to National Forest System land.

(b) Guidance

(1) In general

To enhance the reliability of the electric grid and reduce the threat of wildfire damage to, and wildfire caused by vegetation-related conditions within, electric transmission and distribution rights-of-way and abutting Federal land, including hazard trees, the Secretary concerned shall issue and periodically update guidance to ensure that provisions are appropriately developed and implemented for utility vegetation management, facility inspection, and operation and maintenance of rights-of-way, regardless of the means by which the rights-of-way are established (including by grant, special use authorization, and easement).

(2) Limitation

The guidance issued under paragraph (1) shall be compatible with mandatory reliability standards established by the Electric Reliability Organization.

(3) Considerations

The guidance issued under paragraph (1) shall take into account—

(A) all applicable law, including fire safety and electric system reliability requirements

(including reliability standards established by the Electric Reliability Organization under section 824o of title 16); and

(B) the Memorandum of Understanding on Vegetation Management for Powerline Rights-of-Way between the Edison Electric Institute, Utility Arborist Association, the Department of the Interior, the Department of Agriculture, and the Environmental Protection Agency signed in 2016.

(4) Requirements

The guidance issued under paragraph (1) shall—

(A) be developed in consultation with the owners of transmission and distribution facilities that hold rights-of-way;

(B) seek to minimize the need for case-by-case approvals for—

(i) routine vegetation management, facility inspection, and operation and maintenance activities; and

(ii) utility vegetation management activities that are necessary to control hazard trees; and

(C) provide for prompt and timely review of requests to conduct vegetation management activities that require approval of the Secretary concerned, especially activities requiring expedited or immediate action.

(c) Vegetation management, facility inspection, and operation and maintenance plans

(1) Development and submission

Consistent with subsection (b), the Secretary concerned shall provide owners and operators of electric transmission or distribution facilities located on public lands and National Forest System land, as applicable, with the option to develop and submit a plan.

(2) ERO standards

Owners and operators subject to mandatory reliability standards established by the Electric Reliability Organization (or superseding standards) may use those standards as part of the plan.

(3) Plan requirements

A plan developed under paragraph (1) shall—

(A) identify the applicable transmission or distribution facilities to be maintained;

(B) take into account operations and maintenance plans for the applicable transmission or distribution line;

(C) describe the vegetation management, inspection, and operation and maintenance methods that may be used to comply with all applicable law, including fire safety requirements and reliability standards established by the Electric Reliability Organization;

(D) include schedules for—

(i) the applicable owner or operator to notify the Secretary concerned about routine and major maintenance;

(ii) the applicable owner or operator to request approval from the Secretary concerned about undertaking routine and major maintenance; and

(iii) the Secretary concerned to respond to a request by an owner or operator under clause (ii); and

(E) describe processes for—

- (i) identifying changes in conditions; and
- (ii) modifying the approved plan, if necessary.

(4) Review and approval process

(A) In general

The Secretary concerned shall jointly develop a consolidated and coordinated process for the review and approval of plans submitted under paragraph (1) that—

(i) includes timelines and benchmarks for—

- (I) the submission of agency comments on the plans and schedules for final decision; and
- (II) the timely review of modifications of the plans in cases in which modifications are necessary;

(ii) is consistent with applicable law; and¹

(iii) includes a process for modifications to a plan in a prompt manner if changed conditions necessitate a modification to a plan; and

(iv) ensures, to the maximum extent practicable, a prompt review and approval process not to exceed 120 days.

(B) Plan modification

Upon reasonable advance notice to an owner or operator of an electric transmission or distribution facility of any changed conditions that warrant a modification to a plan, the Secretary concerned shall—

(i) provide an opportunity for the owner or operator to submit a proposed plan modification, consistent with the process described under subparagraph (A)(iii), to address the changed condition identified by the Secretary concerned;

(ii) consider the proposed plan modification consistent with the process described under paragraph (4)(A); and

(iii) allow the owner or operator to continue to implement any element of the approved plan that does not directly and adversely affect the condition precipitating the need for modification.

(5) Categories of actions not requiring environmental analysis

With respect to the development and approval of plans submitted under paragraph (1), as well as with respect to actions carried out under such plans, the Secretary concerned shall identify categories of actions for which neither an environmental impact statement nor an environmental assessment shall be required under section 1508.4 of title 40, Code of Federal Regulations (or a successor regulation).

(d) Certain owners and operators

(1) In general

The owner or operator of an electric transmission or distribution facility that is not subject to the mandatory reliability standards

established by the Electric Reliability Organization or that sold less than or equal to 1,000,000 megawatt hours of electric energy for purposes other than resale during each of the 3 calendar years immediately preceding March 23, 2018, may enter into an agreement with the Secretary concerned in lieu of a plan under subsection (c).

(2) Minimum requirements

The Secretary concerned shall ensure that the minimum requirements for an agreement under paragraph (1)—

(A) reflect the relative financial resources of the applicable owner or operator compared to other owners or operators of an electric transmission or distribution facility;

(B) include schedules as described in subsection (c)(3)(D);

(C) are subject to modification requirements as described in subsection (c)(4)(B); and

(D) comply with applicable law.

(e) Emergency conditions

If vegetation or hazard trees have contacted or present an imminent danger of contacting an electric transmission or distribution line from within or adjacent to an electric transmission or distribution right-of-way, the owner or operator of the electric transmission or distribution lines—

(1) may prune or remove the vegetation or hazard tree—

(A) to avoid the disruption of electric service; and

(B) to eliminate immediate fire and safety hazards; and

(2) shall notify the appropriate local agent of the Secretary concerned not later than 1 day after the date of the response to emergency conditions.

(f) Activities that require approval

(1) In general

Except as provided under paragraph (3), the owner or operator of an electric transmission or distribution facility may conduct vegetation management activities that require approval of the Secretary concerned in accordance with a plan approved under subsection (c) or an agreement entered into under subsection (d) only with the approval of the Secretary concerned.

(2) Requirement to respond

The Secretary concerned shall respond to a request for approval to conduct vegetation management activities in accordance with the applicable schedules in a plan approved under subsection (c) or an agreement entered into under subsection (d).

(3) Authorized activities

The owner or operator of an electric transmission or distribution facility may conduct vegetation management activities that require approval of the Secretary concerned in accordance with a plan approved under subsection (c) or an agreement entered into under subsection (d) without the approval of the Secretary concerned if—

¹ So in original.

(A) the owner or operator submitted a request to the Secretary concerned in accordance with the applicable schedule in a plan approved under subsection (c) or an agreement entered into under subsection (d);

(B) the vegetation management activities, including the removal of hazard trees, proposed in the request under subparagraph (A) are in accordance with a plan approved under subsection (c) or an agreement entered into under subsection (d); and

(C) the Secretary concerned fails to respond to the request under subparagraph (A) in accordance with the applicable schedule in a plan approved under subsection (c) or an agreement entered into under subsection (d).

(g) Liability

(1) In general

The Secretary concerned shall not impose strict liability for damages or injury resulting from—

(A) the Secretary concerned unreasonably withholding or delaying—

(i) approval of a plan under subsection (c); or

(ii) entrance into an agreement under subsection (d); or

(B) the Secretary concerned unreasonably failing to adhere to an applicable schedule in a plan approved under subsection (c) or an agreement entered into under subsection (d).

(2) Damages

For the period ending 10 years after March 23, 2018, the Secretary concerned shall not impose strict liability in an amount greater than \$500,000 per incident for damages or injury resulting from activities conducted by an owner or operator in accordance with an approved agreement under subsection (d).

(3) Rule of construction

Nothing in paragraph (2) shall be construed to effect¹ any liability imposed by the Secretary concerned under section 251.56(d) of title 36, Code of Federal Regulations (as in effect on March 23, 2018) and section 2807.12 of title 43, Code of Federal Regulations (as in effect on March 23, 2018), for activities conducted by an owner or operator in accordance with an approved plan under subsection (c).

(h) Reporting requirement

(1) Activities that require approval

The Secretary concerned shall report requests and actions made under subsection (f) annually on the website of the Secretary concerned.

(2) Liability

Not later than four years after March 23, 2018, the Secretary concerned shall prepare and submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that describes the effect on the Treasury of the strict liability limitation established by subsection (g)(2).

(i) Training and guidance

In consultation with the electric utility industry, the Secretary concerned is encouraged to

develop a program to train personnel of the Department of the Interior and the Forest Service involved in vegetation management decisions relating to electric transmission and distribution facilities to ensure that the personnel—

(1) understand electric system reliability requirements as the requirements relate to vegetation management of transmission and distribution rights-of-way on Federal land, including reliability standards established by the Electric Reliability Organization and fire safety requirements;

(2) assist owners and operators of electric transmission and distribution facilities in complying with applicable electric reliability and fire safety requirements;

(3) encourage and assist willing owners and operators of electric transmission and distribution facilities to incorporate on a voluntary basis vegetation management practices to enhance habitats and forage for pollinators and for other wildlife if the practices are compatible with the integrated vegetation management practices necessary for reliability and safety; and

(4) understand how existing and emerging unmanned technologies can help electric utilities, the Federal Government, State and local governments, and private landowners—

(A) to more efficiently identify vegetation management needs;

(B) to reduce the risk of wildfires; and

(C) to lower ratepayer energy costs.

(j) Implementation

The Secretary concerned shall—

(1) not later than 1 year after March 23, 2018, propose regulations, or amend existing regulations, to implement this section; and

(2) not later than 2 years after March 23, 2018, finalize regulations, or amend existing regulations, to implement this section.

(k) Existing vegetation management, facility inspection, and operation and maintenance plans

Nothing in this section requires an owner or operator to develop and submit a new plan under this section if a plan consistent with this section has already been approved by the Secretary concerned before March 23, 2018.

(Pub. L. 94-579, title V, §512, as added Pub. L. 115-141, div. O, title II, §211(a), Mar. 23, 2018, 132 Stat. 1068.)

Statutory Notes and Related Subsidiaries

UTILITY INFRASTRUCTURE RIGHTS-OF-WAY VEGETATION MANAGEMENT PILOT PROGRAM

Pub. L. 115-334, title VIII, §8630, Dec. 20, 2018, 132 Stat. 4865, provided that:

“(a) DEFINITIONS.—In this section:

“(1) NATIONAL FOREST SYSTEM LAND.—

“(A) IN GENERAL.—The term ‘National Forest System land’ means land 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)).

“(B) EXCLUSIONS.—The term ‘National Forest System land’ does not include—

“(i) a National Grassland; or

“(ii) a land utilization project on land designated as a National Grassland and administered

pursuant to sections 31, 32, and 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010, 1011, 1012).

“(2) PASSING WILDFIRE.—The term ‘passing wildfire’ means a wildfire that originates outside of a right-of-way.

“(3) PILOT PROGRAM.—The term ‘pilot program’ means the pilot program established by the Secretary [of Agriculture] under subsection (b).

“(4) RIGHT-OF-WAY.—The term ‘right-of-way’ means a special use authorization issued by the Forest Service allowing the placement of utility infrastructure.

“(5) UTILITY INFRASTRUCTURE.—The term ‘utility infrastructure’ means electric transmission lines, natural gas infrastructure, or related structures.

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—To encourage owners or operators of rights-of-way on National Forest System land to partner with the Forest Service to voluntarily conduct vegetation management projects on a proactive basis to better protect utility infrastructure from potential passing wildfires, the Secretary may establish a limited, voluntary pilot program, in the manner described in this section, to conduct vegetation management projects on National Forest System land adjacent to those rights-of-way.

“(2) APPLICATION.—The pilot program shall not apply in a right-of-way described in paragraph (1).

“(c) ELIGIBLE PARTICIPANTS.—

“(1) IN GENERAL.—A participant in the pilot program shall be the owner or operator of a right-of-way on National Forest System land.

“(2) SELECTION PRIORITY.—In selecting participants for the pilot program, the Secretary shall give priority to an owner or operator of a right-of-way that has developed the utility infrastructure protection prescriptions of the owner or operator in coordination with Forest Service fire scientists or fire managers.

“(d) VEGETATION MANAGEMENT PROJECTS.—

“(1) IN GENERAL.—A vegetation management project conducted under the pilot program shall involve only limited vegetation management activities that—

“(A) shall create the least ground disturbance and least disturbance to wildlife reasonably necessary to protect utility infrastructure from passing wildfires based on applicable models, including Forest Service fuel models;

“(B) may include thinning and treatment of surface fuels, ladder fuels, and activity fuels to create or maintain shaded fuel breaks or other appropriate measures recommended by Forest Service fire scientists or fire managers;

“(C)(i) shall only be conducted on National Forest System land; and

“(ii) shall not—

“(I) extend for more than 150 feet from the electric transmission line for which the applicable participant has a right-of-way; or

“(II) comprise an overall width, for both sides of that electric transmission line, that totals more than 200 feet; and

“(D) shall not be conducted on—

“(i) a component of the National Wilderness Preservation System;

“(ii) a designated wilderness study area;

“(iii) an inventoried roadless area; or

“(iv) Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited.

“(2) APPROVAL.—Each vegetation management project described in paragraph (1) shall be subject to approval by the Forest Service in accordance with this section.

“(3) FIRE PREVENTION.—In carrying out a vegetation management project under the pilot program, a participant shall adhere to—

“(A) Forest Service regulations relating to spark arresting devices;

“(B) Forest Service regulations limiting and prohibiting certain activities conducted by contractors in an area, based on weather conditions and fire danger;

“(C) Forest Service regulations that apply to contractors removing vegetation on National Forest System land pursuant to a timber sale or stewardship contract, including regulations relating to—

“(i) protection of residual trees and timber damaged by contractors;

“(ii) protection measures needed for plants, animals, cultural resources, and cave resources;

“(iii) streamcourse protection and erosion control;

“(iv) fire plans, precautions, and precautionary periods;

“(v) fire suppression costs; and

“(vi) employment of eligible workers; and

“(D) State regulations relating to the prevention of wildfires and contractors removing vegetation.

“(4) TREATMENT OF SLASH.—In carrying out a vegetation management project under the pilot program, a participant shall treat any activity fuels in a manner that—

“(A) is satisfactory to the Forest Service;

“(B) does not result in a fire hazard; and

“(C) reduces the risk of an insect or disease outbreak.

“(e) PROJECT COSTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f)(2), a participant in the pilot program shall be responsible for all costs, as determined by the Secretary, incurred in participating in the pilot program.

“(2) FEDERAL FUNDING.—The Secretary may contribute funds for a vegetation management project conducted under the pilot program if the Secretary determines that the contribution is in the public interest.

“(f) LIABILITY.—

“(1) ACTIVITIES WITHIN RIGHTS-OF-WAY.—Participation in the pilot program shall not affect any legal obligations or liability standards that arise under the right-of-way for activities in the right-of-way.

“(2) WILDFIRES.—

“(A) OPERATIONS FIRES.—

“(i) IN GENERAL.—With respect to fire suppression costs for a wildfire caused by the operations of a participant in the pilot program (other than an operation or activity of a participant described in subparagraph (B) or (C)), the participant shall reimburse the Forest Service for those costs, subject to a maximum dollar amount to which the Forest Service and the participant shall agree prior to the commencement of the project.

“(ii) CREDIT FOR ACTIONS BY PARTICIPANTS.—

“(I) IN GENERAL.—If a participant in the pilot program provides actions, supplies, or equipment for use to suppress a wildfire described in clause (i) or at the request of the Forest Service, the cost of those actions, supplies, or equipment shall be credited toward the maximum dollar amount described in that clause.

“(II) REIMBURSEMENT.—If the actual cost of a participant described in subclause (I) exceeds the maximum dollar amount described in clause (i), the Forest Service shall reimburse the participant for the excess.

“(B) NEGLIGENT FIRES.—

“(i) IN GENERAL.—Subject to clause (ii), if a wildfire is caused by the negligence of a participant in the pilot program, or an agent of the participant, including a wildfire caused by smoking by persons engaged in the operations of the participant, the participant shall bear the cost of damages to Forest Service resources and the fire suppression costs resulting from the wildfire.

“(ii) LIMITATION.—Except as provided in clause (iii), the costs borne by a participant under clause (i) shall not exceed \$500,000.

“(iii) FAILURE TO COMPLY.—If the start or spread of a wildfire described in clause (i) is caused by the failure of the participant to comply with specific safety requirements expressly imposed by the Forest Service as a condition of conducting a vegetation management project under the pilot program or by this section, the participant shall bear the cost of damages to Forest Service resources and the fire suppression costs resulting from the wildfire.

“(C) EXCEPTIONS.—This paragraph shall not apply in the case of a wildfire caused by the felling of a tree by a participant in the pilot program, or an agent of the participant, onto an electric transmission line.

“(3) EFFECT.—Nothing in this subsection relieves a participant in the pilot program of any liabilities to which the participant is subject—

“(A) under State laws; or

“(B) with regard to damages to property other than Forest Service property.

“(g) IMPLEMENTATION.—

“(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall use the authority of the Secretary under other laws (including regulations) to carry out the pilot program.

“(2) COMPLIANCE WITH EXISTING LAWS.—Except as provided in paragraph (3), a vegetation management project under the pilot program shall be—

“(A) consistent with the applicable land management plan for the area in which the project is located; and

“(B) carried out in accordance with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(3) MODIFICATION OF REGULATIONS.—In order to implement the pilot program in an efficient and expeditious manner, the Secretary may waive or modify specific provisions of the Federal Acquisition Regulation, including waivers or modifications to allow for the formation of contracts or agreements on a non-competitive basis.

“(h) TREATMENT OF PROCEEDS.—Notwithstanding any other provision of law, the Secretary may—

“(1) retain any funds provided to the Forest Service by a participant in the pilot program; and

“(2) use funds retained under paragraph (1), in such amounts as may be appropriated, to carry out the pilot program.

“(i) REPORT TO CONGRESS.—Not later than December 31, 2020, and 2 years thereafter, the Secretary shall submit a report describing the status of the pilot program and vegetation management projects conducted under the pilot program to—

“(1) the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate; and

“(2) the Committees on Agriculture and Natural Resources of the House of Representatives.

“(j) DURATION.—The authority to carry out the pilot program, including any vegetation management project conducted under the pilot program, expires on October 1, 2023.”

SUBCHAPTER VI—DESIGNATED MANAGEMENT AREAS

§ 1781. California Desert Conservation Area

(a) Congressional findings

The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population;

(2) the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan¹ to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the public lands in the California desert; and

(6) to insure further study of the relationship of man and the California desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to facilitate effective implementation of such planning and management.

(b) Statement of purpose

It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

(c) Description of Area

(1) For the purpose of this section, the term “California desert” means the area generally depicted on a map entitled “California Desert Conservation Area—Proposed” dated April 1974, and described as provided in subsection (c)(2).

(2) As soon as practicable after October 21, 1976, the Secretary shall file a revised map and a legal description of the California Desert Conservation Area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) Preparation and implementation of comprehensive long-range plan for management, use, etc.

The Secretary, in accordance with section 1712 of this title, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Con-

¹ So in original. Probably should be “plan”.

ervation Area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including, but not limited to, maintenance of environmental quality, rights-of-way, and mineral development. Such plan shall be completed and implementation thereof initiated on or before September 30, 1980.

(e) Interim program for management, use, etc.

During the period beginning on October 21, 1976, and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California Desert Conservation Area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

(f) Applicability of mining laws

Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining laws on the public lands within the California Desert Conservation Area, except that all mining claims located on public lands within the California Desert Conservation Area shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this section. Any patent issued on any such mining claim shall recite this limitation and continue to be subject to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the public lands of the California Desert Conservation Area against undue impairment, and to assure against pollution of the streams and waters within the California Desert Conservation Area.

(g) Advisory Committee; establishment; functions

(1) The Secretary, within sixty days after October 21, 1976, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 1739 of this title.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(h) Management of lands under jurisdiction of Secretary of Agriculture and Secretary of Defense

The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California Desert Conservation Area, in accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforce-

ment in accordance with applicable authorities to protect the archeological and other values of the California Desert Conservation Area and adjacent lands.

(i) Omitted

(j) Authorization of appropriations

There are authorized to be appropriated for fiscal years 1977 through 1981 not to exceed \$40,000,000 for the purpose of this section, such amount to remain available until expended.

(Pub. L. 94-579, title VI, §601, Oct. 21, 1976, 90 Stat. 2782.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (c)(2) and (f), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Subsec. (i) of this section, which required the Secretary to report annually to Congress on the progress in, and any problems concerning, the implementation of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the last item on page 107 of House Document No. 103-7.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate, referred to in subsec. (c)(2), abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

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.

DESERT LILY SANCTUARY

Pub. L. 103-433, title I, §107, Oct. 31, 1994, 108 Stat. 4483, provided that:

"(a) DESIGNATION.—There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled 'Desert Lily Sanctuary', dated February 1986. The Secretary [of the Interior] shall administer the area to provide maximum protection to the desert lily.

"(b) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the Desert Lily Sanctuary are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto."

DINOSAUR TRACKWAY AREA OF CRITICAL ENVIRONMENTAL CONCERN

Pub. L. 103-433, title I, §108, Oct. 31, 1994, 108 Stat. 4483, provided that:

"(a) DESIGNATION.—There is hereby established the Dinosaur Trackway Area of Critical Environmental

Concern within the California Desert Conservation Area, of the Bureau of Land Management, comprising approximately five hundred and ninety acres as generally depicted on a map entitled 'Dinosaur Trackway Area of Critical Environmental Concern', dated July 1993. The Secretary [of the Interior] shall administer the area to preserve the paleontological resources within the area.

“(b) WITHDRAWAL.—Subject to valid existing rights, the Federal lands within and adjacent to the Dinosaur Trackway Area of Critical Environmental Concern, as generally depicted on a map entitled 'Dinosaur Trackway Mineral Withdrawal Area', dated July 1993, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.”

§ 1781a. Acceptance of donation of certain existing permits or leases

(1) During fiscal year 2012 and thereafter, the Secretary of the Interior shall accept the donation of any valid existing permits or leases authorizing grazing on public lands within the California Desert Conservation Area. With respect to each permit or lease donated under this paragraph, the Secretary shall terminate the grazing permit or lease, ensure a permanent end (except as provided in paragraph (2)), to grazing on the land covered by the permit or lease, and make the land available for mitigation by allocating the forage to wildlife use consistent with any applicable Habitat Conservation Plan, section 10(a)(1)(B) permit, or section 7 consultation under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(2) If the land covered by a permit or lease donated under paragraph (1) is also covered by another valid existing permit or lease that is not donated under such paragraph, the Secretary of the Interior shall reduce the authorized grazing level on the land covered by the permit or lease to reflect the donation of the permit or lease under paragraph (1). To ensure that there is a permanent reduction in the level of grazing on the land covered by a permit or lease donated under paragraph (1), the Secretary shall not allow grazing use to exceed the authorized level under the remaining valid existing permit or lease that is not donated.

(Pub. L. 112–74, div. E, title I, §122(b), Dec. 23, 2011, 125 Stat. 1013.)

Editorial Notes

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (1), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. Sections 10(a)(1)(B) and 7 of the Act are classified to sections 1539(a)(1)(B) and 1536, respectively, of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012, and also as part of the Consolidated Appropriations Act, 2012, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1782. Bureau of Land Management Wilderness Study

(a) Lands subject to review and designation as wilderness

Within fifteen years after October 21, 1976, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 1711(a) of this title as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or unsuitability of each such area or island for preservation as wilderness: *Provided*, That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the United States Geological Survey and the United States Bureau of Mines to determine the mineral values, if any, that may be present in such areas: *Provided further*, That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act [16 U.S.C. 1132(d)].

(b) Presidential recommendation for designation as wilderness

The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) Status of lands during period of review and determination

During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on October 21, 1976: *Provided*, That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 1714 of this title for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act

[16 U.S.C. 1131 et seq.] which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act [16 U.S.C. 1133(d)(2)], and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.

(Pub. L. 94-579, title VI, §603, Oct. 21, 1976, 90 Stat. 2785; Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 102-285, §10(b), May 18, 1992, 106 Stat. 172.)

Editorial Notes

REFERENCES IN TEXT

The Wilderness Act of September 3, 1964, referred to in subsecs. (a) and (c), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

This Act, referred to in subsec. (c), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“United States Geological Survey” substituted for “Geological Survey” in subsec. (a) pursuant to provision of title I of Pub. L. 102-154, set out as a note under section 31 of this title.

“United States Bureau of Mines” substituted for “Bureau of Mines” in subsec. (a) pursuant to section 10(b) of Pub. L. 102-285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see note set out under section 1 of Title 30.

Pub. L. 104-134, title I, §101(c) [title I], Apr. 26, 1996, 110 Stat. 1321-156, 1321-165; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: “That the authority granted to the United States Bureau of Mines to conduct mineral surveys and to determine mineral values by section 603 of Public Law 94-579 [43 U.S.C. 1782] is hereby transferred to, and vested in, the Director of the United States Geological Survey.”

§ 1783. Yaquina Head Outstanding Natural Area

(a) Establishment

In order to protect the unique scenic, scientific, educational, and recreational values of certain lands in and around Yaquina Head, in Lincoln County, Oregon, there is hereby established, subject to valid existing rights, the Yaquina Head Outstanding Natural Area (hereinafter referred to as the “area”). The boundaries of the area are those shown on the map entitled “Yaquina Head Area”, dated July 1979, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State Office of the Bureau of Land Management in the State of Oregon.

(b) Administration by Secretary of the Interior; management plan; quarrying permits

(1) The Secretary of the Interior (hereinafter referred to as the “Secretary”) shall administer

the Yaquina Head Outstanding Natural Area in accordance with the laws and regulations applicable to the public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702) [43 U.S.C. 1702(e)], in such a manner as will best provide for—

(A) the conservation and development of the scenic, natural, and historic values of the area;

(B) the continued use of the area for purposes of education, scientific study, and public recreation which do not substantially impair the purposes for which the area is established; and

(C) protection of the wildlife habitat of the area.

(2) The Secretary shall develop a management plan for the area which accomplishes the purposes and is consistent with the provisions of this section. This plan shall be developed in accordance with the provisions of section 202 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1712).

(3) Notwithstanding any other provision of this section, the Secretary is authorized to issue permits or to contract for the quarrying of materials from the area in accordance with the management plan for the area on condition that the lands be reclaimed and restored to the satisfaction of the Secretary. Such authorization to quarry shall require payment of fair market value for the materials to be quarried, as established by the Secretary, and shall also include any terms and conditions which the Secretary determines necessary to protect the values of such quarry lands for purposes of this section.

(c) Revocation of 1866 reservation of lands for lighthouse purposes; restoration to public lands status

The reservation of lands for lighthouse purposes made by Executive order of June 8, 1866, of certain lands totaling approximately 18.1 acres, as depicted on the map referred to in subsection (a), is hereby revoked. The lands referred to in subsection (a) are hereby restored to the status of public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702) [43 U.S.C. 1702(e)], and shall be administered in accordance with the management plan for the area developed pursuant to subsection (b), except that such lands are hereby withdrawn from settlement, sale, location, or entry, under the public land laws, including the mining laws (30 U.S.C., ch. 2), leasing under the mineral leasing laws (30 U.S.C. 181 et seq.), and disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602) [43 U.S.C. 601 et seq.].

(d) Acquisition of lands not already in Federal ownership

The Secretary shall, as soon as possible but in no event later than twenty-four months following March 5, 1980, acquire by purchase, exchange, donation, or condemnation all or any part of the lands and waters and interests in lands and waters within the area referred to in subsection (a) which are not in Federal ownership except that State land shall not be acquired

by purchase or condemnation. Any lands or interests acquired by the Secretary pursuant to this section shall become public lands as defined in the Federal Land Policy and Management Act of 1976, as amended [43 U.S.C. 1701 et seq.]. Upon acquisition by the United States, such lands are automatically withdrawn under the provisions of subsection (c) except that lands affected by quarrying operations in the area shall be subject to disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602) [30 U.S.C. 601 et seq.]. Any lands acquired pursuant to this subsection shall be administered in accordance with the management plan for the area developed pursuant to subsection (b).

(e) Wind energy research

The Secretary is authorized to conduct a study relating to the use of lands in the area for purposes of wind energy research. If the Secretary determines after such study that the conduct of wind energy research activity will not substantially impair the values of the lands in the area for purposes of this section, the Secretary is further authorized to issue permits for the use of such lands as a site for installation and field testing of an experimental wind turbine generating system. Any permit issued pursuant to this subsection shall contain such terms and conditions as the Secretary determines necessary to protect the values of such lands for purposes of this section.

(f) Reclamation and restoration of lands affected by quarrying operations

The Secretary shall develop and administer, in addition to any requirements imposed pursuant to subsection (b)(3), a program for the reclamation and restoration of all lands affected by quarrying operations in the area acquired pursuant to subsection (d). All revenues received by the United States in connection with quarrying operations authorized by subsection (b)(3) shall be deposited in a separate fund account which shall be established by the Secretary of the Treasury. Such revenues are hereby authorized to be appropriated to the Secretary as needed for reclamation and restoration of any lands acquired pursuant to subsection (d). After completion of such reclamation and restoration to the satisfaction of the Secretary, any unexpended revenues in such fund shall be returned to the general fund of the United States Treasury.

(g) Authorization of appropriations

There are hereby authorized to be appropriated in addition to that authorized by subsection (f), such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 96-199, title I, §119, Mar. 5, 1980, 94 Stat. 71.)

Editorial Notes

REFERENCES IN TEXT

The Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602), referred to in subsecs. (c) and (d), is act July 31, 1947, ch. 406, 61 Stat. 681, as amended, which is classified generally to subchapter I (§601 et seq.) of chapter 15 of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 30 and Tables.

The Federal Land Policy and Management Act of 1976, as amended, referred to in subsec. (d), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1784. Lands in Alaska; designation as wilderness; management by Bureau of Land Management pending Congressional action

Notwithstanding any other provision of law, section 1782 of this title shall not apply to any lands in Alaska. However, in carrying out his duties under sections 1711 and 1712 of this title and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.]. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

(Pub. L. 96-487, title XIII, §1320, Dec. 2, 1980, 94 Stat. 2487.)

Editorial Notes

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

CODIFICATION

Section was enacted as part of the Alaska National Interest Lands Conservation Act, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Statutory Notes and Related Subsidiaries

KENAI NATIVES ASSOCIATION LAND EXCHANGE

Pub. L. 104-333, div. I, title III, §311, Nov. 12, 1996, 110 Stat. 4139, as amended by Pub. L. 106-176, title I, §105, Mar. 10, 2000, 114 Stat. 25, provided that:

“(a) SHORT TITLE.—This section may be cited as the ‘Kenai Natives Association Equity Act Amendments of 1996’.

“(b) FINDINGS AND PURPOSE.—

“(1) FINDINGS.—The Congress finds the following:

“(A) The United States Fish and Wildlife Service and Kenai Natives Association, Inc., have agreed to transfers of certain land rights, in and near the Kenai National Wildlife Refuge, negotiated as directed by Public Law 102-458 [106 Stat. 2267].

“(B) The lands to be acquired by the Service are within the area impacted by the Exxon Valdez oil spill of 1989, and these lands included important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the EVOS Trustee Council restoration process. This analysis has indicated that these lands generally have value for the res-

toration of such injured natural resources as pink salmon, dolly varden, bald eagles, river otters, and cultural and archaeological resources. This analysis has also indicated that these lands generally have high value for the restoration of injured species that rely on these natural resources, including wilderness quality, recreation, tourism, and subsistence.

“(C) Restoration of the injured species will benefit from acquisition and the prevention of disturbances which may adversely affect their recovery.

“(D) It is in the public interest to complete the conveyances provided for in this section.

“(2) PURPOSE.—The purpose of this section is to authorize and direct the Secretary, at the election of KNA, to complete the conveyances provided for in this section.

“(c) DEFINITIONS.—For purposes of this section, the term—

“(1) ‘ANCSA’ means the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

“(2) ‘ANILCA’ means the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371 et seq. [see Short Title note set out under section 3101 of Title 16, Conservation]);

“(3) ‘conservation system unit’ has the same meaning as in section 102(4) of ANILCA (16 U.S.C. 3102(4));

“(4) ‘CIRI’ means the Cook Inlet Region, Inc., a Native Regional Corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

“(5) ‘EVOS’ means the Exxon Valdez oil spill;

“(6) ‘KNA’ means the Kenai Natives Association, Inc., an urban corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

“(7) ‘lands’ means any lands, waters, or interests therein;

“(8) ‘Refuge’ means the Kenai National Wildlife Refuge;

“(9) ‘Secretary’ means the Secretary of the Interior;

“(10) ‘Service’ means the United States Fish and Wildlife Service; and

“(11) ‘Terms and Conditions’ means the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified on August 31, 1976, ratified by section 12 of Public Law 94-204 (43 U.S.C. 1611 note).

“(d) ACQUISITION OF LANDS.—

“(1) OFFER TO KNA.—

“(A) IN GENERAL.—Subject to the availability of the funds identified in paragraph (2)(C), no later than 90 days after the date of enactment of this section [Nov. 12, 1996], the Secretary shall offer to convey to KNA the interests in land and rights set forth in paragraph (2)(B), subject to valid existing rights, in return for the conveyance by KNA to the United States of the interests in land or relinquishment of ANCSA selections set forth in paragraph (2)(A). Payment for the lands conveyed to the United States by KNA is contingent upon KNA’s acceptance of the entire conveyance outlined herein.

“(B) LIMITATION.—The Secretary may not convey any lands or make payment to KNA under this section unless title to the lands to be conveyed by KNA under this section has been found by the United States to be sufficient in accordance with the provisions of section 355 of the Revised Statutes (40 U.S.C. 255) [now 40 U.S.C. 3111, 3112].

“(2) ACQUISITION LANDS.—

“(A) LANDS TO BE CONVEYED TO THE UNITED STATES.—The lands to be conveyed by KNA to the United States, or the valid selection rights under ANCSA to be relinquished, all situated within the boundary of the Refuge, are the following:

“(i) The conveyance of approximately 803 acres located along and on islands within the Kenai River, known as the Stephanka Tract.

“(ii) The conveyance of approximately 1,243 acres located along the Moose River, known as the Moose River Patented Lands Tract.

“(iii) The relinquishment of KNA’s selection known as the Moose River Selected Tract, containing approximately 753 acres located along the Moose River.

“(iv) The relinquishment of KNA’s remaining ANCSA entitlement of approximately 454 acres.

“(v) The relinquishment of all KNA’s remaining overselections. Upon completion of all relinquishments outlined above, all KNA’s entitlement shall be deemed to be extinguished and the completion of this acquisition will satisfy all of KNA’s ANCSA entitlement.

“(vi) The conveyance of an access easement providing the United States and its assigns access across KNA’s surface estate in the SW¼ of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska.

“(vii) The conveyance of approximately 100 acres within the Beaver Creek Patented Tract, which is contiguous to lands being retained by the United States contiguous to the Beaver Creek Patented Tract, in exchange for 280 acres of Service lands currently situated within the Beaver Creek Selected Tract.

“(B) LANDS TO BE CONVEYED TO KNA.—The rights provided or lands to be conveyed by the United States to KNA, are the following:

“(i) The surface and subsurface estate to approximately 5 acres, subject to reservations of easements for existing roads and utilities, located within the city of Kenai, Alaska, identified as United States Survey 1435, withdrawn by Executive Order 2943 and known as the old Fish and Wildlife Service Headquarters site.

“(ii) The remaining subsurface estate held by the United States to approximately 13,651 acres, including portions of the Beaver Creek Patented Tract, the Beaver Creek Selected Tract, and portions of the Swanson River Road West Tract and the Swanson River Road East Tract, where the surface was previously or will be conveyed to KNA pursuant to this Act but excluding the SW¼ of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska, which will be retained by the United States. The conveyance of these subsurface interests will be subject to the rights of CIRI to the coal, oil, gas, and to all rights CIRI, its successors, and assigns would have under paragraph 1(B) of the Terms and Conditions, including the right to sand and gravel, to construct facilities, to have rights-of-way, and to otherwise develop its subsurface interests.

“(iii)(I) The nonexclusive right to use sand and gravel which is reasonably necessary for on-site development without compensation or permit on those portions of the Swanson River Road East Tract, comprising approximately 1,738.04 acres; where the entire subsurface of the land is presently owned by the United States. The United States shall retain the ownership of all other sand and gravel located within the subsurface and KNA shall not sell or dispose of such sand and gravel.

“(II) The right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate.

“(iv) The nonexclusive right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate on the SW¼, section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska, where the entire subsurface of the land is owned by the United States and which public lands shall continue to be withdrawn from mining following their removal from the Refuge boundary under paragraph (3)(A)(ii). The United States shall retain the ownership of all other sand and gravel located within the subsurface of this parcel.

“(v) The surface estate of approximately 280 acres known as the Beaver Creek Selected Tract.

This tract shall be conveyed to KNA in exchange for lands conveyed to the United States as described in paragraph (2)(A)(ii).

“(C) PAYMENT.—The United States shall make a total cash payment to KNA for the above-described lands of \$4,443,000, contingent upon the appropriate approvals of the Federal or State of Alaska EVOS Trustees (or both) necessary for any expenditure of the EVOS settlement funds.

“(D) NATIONAL REGISTER OF HISTORIC PLACES.—Upon completion of the acquisition authorized in paragraph (1), the Secretary shall, at no cost to KNA, in coordination with KNA, promptly undertake to nominate the Stephanka Tract to the National Register of Historic Places, in recognition of the archaeological artifacts from the original Dena’ina Settlement. If the Department of the Interior establishes a historical, cultural, or archaeological interpretive site, KNA shall have the exclusive right to operate a Dena’ina interpretive site on the Stephanka Tract under the regulations and policies of the department. If KNA declines to operate such a site, the department may do so under its existing authorities. Prior to the department undertaking any archaeological activities whatsoever on the Stephanka Tract, KNA shall be consulted.

“(3) GENERAL PROVISIONS.—

“(A) REMOVAL OF KNA LANDS FROM THE NATIONAL WILDLIFE REFUGE SYSTEM.—

“(i) Effective on the date of closing for the Acquisition Lands identified in paragraph (2)(B), all lands retained by or conveyed to KNA pursuant to this section, and the subsurface interests of CIRI underlying such lands shall be automatically removed from the National Wildlife Refuge System and shall neither be considered as part of the Refuge nor subject to any laws pertaining solely to lands within the boundaries of the Refuge. The conveyance restrictions imposed by section 22(g) of ANCSA [43 U.S.C. 1621(g)] (i) shall then be ineffective and cease to apply to such interests of KNA and CIRI, and (ii) shall not be applicable to the interests received by KNA in accordance with paragraph (2)(B) or to the CIRI interests underlying them. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands retained or received in exchange by KNA in accordance with this section, including both surface and subsurface, and shall also exclude all interests currently held by CIRI. On lands within the Swanson River Road East Tract, the boundary adjustment shall only include the surface estate where the subsurface estate is retained by the United States.

“(ii)(I) The Secretary, KNA, and CIRI shall execute an agreement within 45 days of the date of enactment of this section [Nov. 12, 1996] which preserves CIRI’s rights under paragraph 1(B)(1) of the Terms and Conditions, addresses CIRI’s obligations under such paragraph, and adequately addresses management issues associated with the boundary adjustment set forth in this section and with the differing interests in land resulting from enactment of this section.

“(II) In the event that no agreement is executed as provided for in subclause (I), solely for the purposes of administering CIRI’s rights under paragraph 1(B)(1) of the Terms and Conditions, the Secretary and CIRI shall be deemed to have retained their respective rights and obligations with respect to CIRI’s subsurface interests under the requirements of the Terms and Conditions in effect on June 18, 1996. Notwithstanding the boundary adjustments made pursuant to this section, conveyances to KNA shall be deemed to remain subject to the Secretary’s and CIRI’s rights and obligations under paragraph 1(B)(1) of the Terms and Conditions.

“(iii) The Secretary is authorized to acquire by purchase or exchange, on a willing seller basis

only, any lands retained by or conveyed to KNA. In the event that any lands owned by KNA are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

“(iv) Nothing in this section is intended to enlarge or diminish the authorities, rights, duties, obligations, or the property rights held by CIRI under the Terms and Conditions, or otherwise except as set forth in this section. In the event of the purchase by the United States of any lands from KNA in accordance with subparagraph (A)(ii), the United States shall reassume from KNA the rights it previously held under the Terms and Conditions and the provisions in any patent implementing section 22(g) of ANCSA [43 U.S.C. 1621(g)] will again apply.

“(v) By virtue of implementation of this section, CIRI is deemed entitled to 1,207 acres of in-lieu subsurface entitlement under section 12(a)(1) of ANCSA [43 U.S.C. 1611(a)(1)]. Such entitlement shall be fulfilled in accordance with paragraph 1(B)(2)(A) of the Terms and Conditions.

“(B) MAPS AND LEGAL DESCRIPTIONS.—Maps and a legal description of the lands described above shall be on file and available for public inspection in the appropriate offices of the United States Department of the Interior, and the Secretary shall, no later than 90 days after enactment of this section, prepare a legal description of the lands described in paragraph (2)(A)(vii). Such maps and legal description shall have the same force and effect as if included in the section, except that the Secretary may correct clerical and typographical errors.

“(C) ACCEPTANCE.—KNA may accept the offer made in this section by notifying the Secretary in writing of its decision within 180 days of receipt of the offer. In the event the offer is rejected, the Secretary shall notify the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

“(D) FINAL MAPS.—Not later than 120 days after the conclusion of the acquisition authorized by paragraph (1), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this section and the acreage and legal descriptions of such lands to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

“(e) ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.—Upon acquisition of lands by the United States pursuant to subsection (d)(2)(A), that portion of the Stephanka Tract lying south and west of the Kenai River, consisting of approximately 592 acres, shall be included in and managed as part of the Kenai Wilderness and such lands shall be managed in accordance with the applicable provisions of the Wilderness Act and ANILCA.

“(f) DESIGNATION OF LAKE TODATONTEN SPECIAL MANAGEMENT AREA.—

“(1) PURPOSE.—To balance the potential effects on fish, wildlife, and habitat of the removal of KNA lands from the Refuge System, the Secretary is hereby directed to withdraw, subject to valid existing rights, from location, entry, and patent under the mining laws and to create as a special management unit for the protection of fish, wildlife, and habitat, certain unappropriated and unreserved public lands, totaling approximately 37,000 acres adjacent to the west boundary of the Kanuti National Wildlife Refuge to be known as the ‘Lake Todatonten Special Management Area’, as depicted on the map entitled ‘Pro-

posed: Lake Totdatonten Special Management Area', dated June 13, 1996, and to be managed by the Bureau of Land Management.

“(2) MANAGEMENT.—

“(A) Such designation is subject to all valid existing rights as well as the subsistence preferences provided under title VIII of ANILCA [16 U.S.C. 3111 et seq.]. Any lands conveyed to the State of Alaska shall be removed from the Lake Totdatonten Special Management Area.

“(B) The Secretary may permit any additional uses of the area, or grant easements, only to the extent that such use, including leasing under the mineral leasing laws, is determined to not detract from nor materially interfere with the purposes for which the Special Management Area is established.

“(C)(i) The BLM shall establish the Lake Totdatonten Special Management Area Committee. The membership of the Committee shall consist of 11 members as follows:

“(I) Two residents each from the villages of Alatna, Allakaket, Hughes, and Tanana.

“(II) One representative from each of Doyon Corporation, the Tanana Chiefs Conference, and the State of Alaska.

“(ii) Members of the Committee shall serve without pay.

“(iii) The BLM shall hold meetings of the Lake Totdatonten Special Management Area Committee at least once per year to discuss management issues within the Special Management Area. The BLM shall not allow any new type of activity in the Special Management Area without first conferring with the Committee in a timely manner.

“(3) ACCESS.—The Secretary shall allow the following:

“(A) Private access for any purpose, including economic development, to lands within the boundaries of the Special Management Area which are owned by third parties or are held in trust by the Secretary for third parties pursuant to the Alaska Native Allotment Act (25 U.S.C. 336). Such rights may be subject to restrictions issued by the BLM to protect subsistence uses of the Special Management Area.

“(B) Existing public access across the Special Management Area. Section 1110(a) of ANILCA [16 U.S.C. 3170(a)] shall apply to the Special Management Area.

“(4) SECRETARIAL ORDER AND MAPS.—The Secretary shall file with the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate, the Secretarial Order and maps setting forth the boundaries of the Area within 90 days of the completion of the acquisition authorized by this section. Once established, this Order may only be amended or revoked by Act of Congress.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”

§ 1785. Fossil Forest Research Natural Area

(a) Establishment

To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the “Area”), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled “Fossil Forest”, dated June 1983.

(b) Map and legal description

(1) In general

As soon as practicable after November 12, 1996, the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) Force and effect

The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

(3) Technical corrections

The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

(4) Public inspection

The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

(c) Management

(1) In general

The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area—

(A) to protect the resources within the Area; and

(B) in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

(2) Mining

(A) Withdrawal

Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

(B) Coal preference rights

The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

(C) Oil and gas leases

Operations on oil and gas leases issued prior to November 12, 1996, shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5-1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the natural, educational, and scientific research values of the Area in existence on November 12, 1996.

(3) Grazing

Livestock grazing on lands within the Area may not be permitted.

(d) Inventory

Not later than 3 full fiscal years after November 12, 1996, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

(e) Management plan**(1) In general**

Not later than 5 years after November 12, 1996, the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a management plan that describes the appropriate use of the Area consistent with this subsection.

(2) Contents

The management plan shall include—

(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for—

(i) laboratory and field interpretation; and

(ii) public education about the resources and values of the Area (including vertebrate fossils);

(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.

(Pub. L. 98-603, title I, § 103, Oct. 30, 1984, 98 Stat. 3156; Pub. L. 104-333, div. I, title X, § 1022(e), Nov. 12, 1996, 110 Stat. 4213; Pub. L. 106-176, title I, § 124, Mar. 10, 2000, 114 Stat. 30.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(2) and (c)(1)(B), is Pub. L. 98-603, Oct. 30, 1984, 98 Stat. 3155, as amended, known as the San Juan Basin Wilderness Protection Act of 1984. For complete classification of this Act to the Code, see Tables.

The Federal Land Policy and Management Act of 1976, as amended, referred to in subsec. (c)(1)(B), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

CODIFICATION

November 12, 1996, referred to in subsec. (e)(1), was in the original “the date of enactment of this Act”, which was translated as meaning the date of enactment of Pub. L. 104-333, which amended this section generally, to reflect the probable intent of Congress.

Section was enacted as part of the San Juan Basin Wilderness Protection Act of 1984, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106-176, § 124(1), substituted “Committee on Resources” for “Committee on Natural Resources”.

Subsec. (e)(1). Pub. L. 106-176, § 124(2), which directed amendment of par. (1) by substituting “this subsection” for “this Act”, was executed by making the substitution following “consistent with”, to reflect the probable intent of Congress.

Pub. L. 106-176, § 124(1), substituted “Committee on Resources” for “Committee on Natural Resources”.

1996—Pub. L. 104-333 amended section generally. Prior to amendment, section read as follows:

“(a) In recognition of its paramount aesthetic, natural, scientific, educational, and paleontological values, the approximately two thousand seven hundred and twenty acre area in the Albuquerque District of the Bureau of Land Management, New Mexico, known as the ‘Fossil Forest’, as generally depicted on a map entitled ‘Fossil Forest’, dated June 1983, is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and geothermal leasing and all amendments thereto. The Secretary of the Interior shall administer the area in accordance with the Federal Land Policy and Management Act and shall take such measures as are necessary to ensure that no activities are permitted within the area which would significantly disturb the land surface or impair the area’s existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation.

“(b) Within one year of October 30, 1984, the Secretary of the Interior shall promulgate rules and regulations for the administration of the Fossil Forest area referred to in subsection (a) of this section in accordance with the provisions of this Act and shall file a copy of such rules and regulations with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

“(c) The Bureau of Land Management is hereby directed to conduct a long-range study of the Fossil Forest to determine how best to manage the area’s resource values identified in subsection (a) of this section. Within eight years of October 30, 1984, the Secretary shall forward the study results and management plan for the area to Congress. During the study period and until Congress determines otherwise, the Fossil Forest area shall be managed under the provisions of this Act.”

Statutory Notes and Related Subsidiaries

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.

§ 1786. Piedras Blancas Historic Light Station**(a) Definitions**

In this section:

(1) Light Station

The term “Light Station” means Piedras Blancas Light Station.

(2) Outstanding Natural Area

The term “Outstanding Natural Area” means the Piedras Blancas Historic Light Station Outstanding Natural Area established pursuant to subsection (c).

(3) Public lands

The term “public lands” has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1703(e)).¹

(4) Secretary

The term “Secretary” means the Secretary of the Interior.

(b) Findings

Congress finds as follows:

(1) The publicly owned Piedras Blancas Light Station has nationally recognized historical structures that should be preserved for present and future generations.

(2) The coastline adjacent to the Light Station is internationally recognized as having significant wildlife and marine habitat that provides critical information to research institutions throughout the world.

(3) The Light Station tells an important story about California’s coastal prehistory and history in the context of the surrounding region and communities.

(4) The coastal area surrounding the Light Station was traditionally used by Indian people, including the Chumash and Salinan Indian tribes.

(5) The Light Station is historically associated with the nearby world-famous Hearst Castle (Hearst San Simeon State Historical Monument), now administered by the State of California.

(6) The Light Station represents a model partnership where future management can be successfully accomplished among the Federal Government, the State of California, San Luis Obispo County, local communities, and private groups.

(7) Piedras Blancas Historic Light Station Outstanding Natural Area would make a significant addition to the National Landscape Conservation System administered by the Department of the Interior’s Bureau of Land Management.

(8) Statutory protection is needed for the Light Station and its surrounding Federal lands to ensure that it remains a part of our historic, cultural, and natural heritage and to be a source of inspiration for the people of the United States.

(c) Designation of the Piedras Blancas Historic Light Station Outstanding Natural Area**(1) In general**

In order to protect, conserve, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of certain lands in and around the Piedras Blancas Light Station, in San Luis Obispo County, California, while allowing cer-

tain recreational and research activities to continue, there is established, subject to valid existing rights, the Piedras Blancas Historic Light Station Outstanding Natural Area.

(2) Maps and legal descriptions

The boundaries of the Outstanding Natural Area as those shown on the map entitled “Piedras Blancas Historic Light Station: Outstanding Natural Area”, dated May 5, 2004, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State office of the Bureau of Land Management in the State of California.

(3) Basis of management

The Secretary shall manage the Outstanding Natural Area as part of the National Landscape Conservation System to protect the resources of the area, and shall allow only those uses that further the purposes for the establishment of the Outstanding Natural Area, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable laws.

(4) Withdrawal

Subject to valid existing rights, and in accordance with the existing withdrawal as set forth in Public Land Order 7501 (Oct. 12, 2001, Vol. 66, No. 198, Federal Register 52149), the Federal lands and interests in lands included within the Outstanding Natural Area are hereby withdrawn from—

(A) all forms of entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the public land mining laws; and

(C) operation of the mineral leasing and geothermal leasing laws and the mineral materials laws.

(d) Management of the Piedras Blancas Historic Light Station Outstanding Natural Area**(1) In general**

The Secretary shall manage the Outstanding Natural Area in a manner that conserves, protects, and enhances the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of that area, including an emphasis on preserving and restoring the Light Station facilities, consistent with the requirements of subsection (c)(3).

(2) Uses

Subject to valid existing rights, the Secretary shall only allow such uses of the Outstanding Natural Area as the Secretary finds are likely to further the purposes for which the Outstanding Natural Area is established as set forth in subsection (c)(1).

(3) Management plan

Not later than 3 years after of² May 8, 2008, the Secretary shall complete a comprehensive management plan consistent with the requirements of section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C.

¹ So in original. Probably should be “1702(e).”

² So in original. The word “of” probably should not appear.

1712) to provide long-term management guidance for the public lands within the Outstanding Natural Area and fulfill the purposes for which it is established, as set forth in subsection (c)(1). The management plan shall be developed in consultation with appropriate Federal, State, and local government agencies, with full public participation, and the contents shall include—

(A) provisions designed to ensure the protection of the resources and values described in subsection (c)(1);

(B) objectives to restore the historic Light Station and ancillary buildings;

(C) an implementation plan for a continuing program of interpretation and public education about the Light Station and its importance to the surrounding community;

(D) a proposal for minimal administrative and public facilities to be developed or improved at a level compatible with achieving the resources objectives for the Outstanding Natural Area as described in paragraph (1) and with other proposed management activities to accommodate visitors and researchers to the Outstanding Natural Area; and

(E) cultural resources management strategies for the Outstanding Natural Area, prepared in consultation with appropriate departments of the State of California, with emphasis on the preservation of the resources of the Outstanding Natural Area and the interpretive, education, and long-term scientific uses of the resources, giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and division A of subtitle III of title 54 within the Outstanding Natural Area.

(4) Cooperative agreements

In order to better implement the management plan and to continue the successful partnerships with the local communities and the Hearst San Simeon State Historical Monument, administered by the California Department of Parks and Recreation, the Secretary may enter into cooperative agreements with the appropriate Federal, State, and local agencies pursuant to section 307(b) of the Federal Land Management³ Policy and Management Act of 1976 (43 U.S.C. 1737(b)).

(5) Research activities

In order to continue the successful partnership with research organizations and agencies and to assist in the development and implementation of the management plan, the Secretary may authorize within the Outstanding Natural Area appropriate research activities for the purposes identified in subsection (c)(1) and pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(a)).

(6) Acquisition

State and privately held lands or interests in lands adjacent to the Outstanding Natural Area and identified as appropriate for acquisition

in the management plan may be acquired by the Secretary as part of the Outstanding Natural Area only by—

(A) donation;

(B) exchange with a willing party; or

(C) purchase from a willing seller.

(7) Additions to the Outstanding Natural Area

Any lands or interest in lands adjacent to the Outstanding Natural Area acquired by the United States after May 8, 2008, shall be added to and administered as part of the Outstanding Natural Area.

(8) Overflights

Nothing in this section or the management plan shall be construed to—

(A) restrict or preclude overflights, including low level overflights, military, commercial, and general aviation overflights that can be seen or heard within the Outstanding Natural Area;

(B) restrict or preclude the designation or creation of new units of special use airspace or the establishment of military flight training routes over the Outstanding Natural Area; or

(C) modify regulations governing low-level overflights above the adjacent Monterey Bay National Marine Sanctuary.

(9) Law enforcement activities

Nothing in this section shall be construed to preclude or otherwise affect coastal border security operations or other law enforcement activities by the Coast Guard or other agencies within the Department of Homeland Security, the Department of Justice, or any other Federal, State, and local law enforcement agencies within the Outstanding Natural Area.

(10) Native American uses and interests

In recognition of the past use of the Outstanding Natural Area by Indians and Indian tribes for traditional cultural and religious purposes, the Secretary shall ensure access to the Outstanding Natural Area by Indians and Indian tribes for such traditional cultural and religious purposes. In implementing this subsection, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of the Outstanding Natural Area in order to protect the privacy of traditional cultural and religious activities in such areas by the Indian tribe or Indian religious community. Any such closure shall be made to affect the smallest practicable area for the minimum period necessary for such purposes. Such access shall be consistent with the purpose and intent of Public Law 95-341 (42 U.S.C. 1996 et seq.; commonly referred to as the “American Indian Religious Freedom Act”).

(11) No buffer zones

The designation of the Outstanding Natural Area is not intended to lead to the creation of protective perimeters or buffer zones around⁴ area. The fact that activities outside the Outstanding Natural Area and not consistent with

³So in original. The word “Management” probably should not appear.

⁴So in original. Probably should be followed by “the”.

the purposes of this section can be seen or heard within the Outstanding Natural Area shall not, of itself, preclude such activities or uses up to the boundary of the Outstanding Natural Area.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section. (Pub. L. 110-229, title II, §201, May 8, 2008, 122 Stat. 759; Pub. L. 113-287, §5(l)(8), Dec. 19, 2014, 128 Stat. 3271.)

Editorial Notes

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(3), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (d)(3)(E), is Pub. L. 96-95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

The American Indian Religious Freedom Act, referred to in subsec. (d)(10), is Pub. L. 95-341, Aug. 11, 1978, 92 Stat. 469, 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.

CODIFICATION

Section was enacted as part of the Consolidated Natural Resources Act of 2008, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

AMENDMENTS

2014—Subsec. (d)(3)(E). Pub. L. 113-287 substituted “division A of subtitle III of title 54” for “the National Historic Preservation Act (16 U.S.C. 470 et seq.)”.

§ 1787. Jupiter Inlet Lighthouse Outstanding Natural Area

(a) Definitions

In this section:

(1) Commandant

The term “Commandant” means the Commandant of the Coast Guard.

(2) Lighthouse

The term “Lighthouse” means the Jupiter Inlet Lighthouse located in Palm Beach County, Florida.

(3) Local Partners

The term “Local Partners” includes—

- (A) Palm Beach County, Florida;
- (B) the Town of Jupiter, Florida;
- (C) the Village of Tequesta, Florida; and
- (D) the Loxahatchee River Historical Society.

(4) Management plan

The term “management plan” means the management plan developed under subsection (c)(1).

(5) Map

The term “map” means the map entitled “Jupiter Inlet Lighthouse Outstanding Natural Area” and dated October 29, 2007.

(6) Outstanding Natural Area

The term “Outstanding Natural Area” means the Jupiter Inlet Lighthouse Outstanding Natural Area established by subsection (b)(1).

(7) Public land

The term “public land” has the meaning given the term “public lands” in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(8) Secretary

The term “Secretary” means the Secretary of the Interior.

(9) State

The term “State” means the State of Florida.

(b) Establishment of the Jupiter Inlet Lighthouse Outstanding Natural Area

(1) Establishment

Subject to valid existing rights, there is established for the purposes described in paragraph (2) the Jupiter Inlet Lighthouse Outstanding Natural Area, the boundaries of which are depicted on the map.

(2) Purposes

The purposes of the Outstanding Natural Area are to protect, conserve, and enhance the unique and nationally important historic, natural, cultural, scientific, educational, scenic, and recreational values of the Federal land surrounding the Lighthouse for the benefit of present generations and future generations of people in the United States, while—

(A) allowing certain recreational and research activities to continue in the Outstanding Natural Area; and

(B) ensuring that Coast Guard operations and activities are unimpeded within the boundaries of the Outstanding Natural Area.

(3) Availability of map

The map shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

(4) Withdrawal

(A) In general

Subject to valid existing rights, subsection (e), and any existing withdrawals under the Executive orders and public land order described in subparagraph (B), the Federal land and any interests in the Federal land included in the Outstanding Natural Area 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) operation of the mineral leasing and geothermal leasing laws and the mineral materials laws.

(B) Description of Executive orders

The Executive orders and public land order described in subparagraph (A) are—

- (i) the Executive Order dated October 22, 1854;
- (ii) Executive Order No. 4254 (June 12, 1925); and
- (iii) Public Land Order No. 7202 (61 Fed. Reg. 29758).

(c) Management plan

(1) In general

Not later than 3 years after May 8, 2008, the Secretary, in consultation with the Commandant, shall develop a comprehensive management plan in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) to—

- (A) provide long-term management guidance for the public land in the Outstanding Natural Area; and
- (B) ensure that the Outstanding Natural Area fulfills the purposes for which the Outstanding Natural Area is established.

(2) Consultation; public participation

The management plan shall be developed—

- (A) in consultation with appropriate Federal, State, county, and local government agencies, the Commandant, the Local Partners, and other partners; and
- (B) in a manner that ensures full public participation.

(3) Existing plans

The management plan shall, to the maximum extent practicable, be consistent with existing resource plans, policies, and programs.

(4) Inclusions

The management plan shall include—

- (A) objectives and provisions to ensure—
 - (i) the protection and conservation of the resource values of the Outstanding Natural Area; and
 - (ii) the restoration of native plant communities and estuaries in the Outstanding Natural Area, with an emphasis on the conservation and enhancement of healthy, functioning ecological systems in perpetuity;
- (B) objectives and provisions to maintain or recreate historic structures;
- (C) an implementation plan for a program of interpretation and public education about the natural and cultural resources of the Lighthouse, the public land surrounding the Lighthouse, and associated structures;
- (D) a proposal for administrative and public facilities to be developed or improved that—
 - (i) are compatible with achieving the resource objectives for the Outstanding Natural Area described in subsection (d)(1)(A)(ii); and
 - (ii) would accommodate visitors to the Outstanding Natural Area;
- (E) natural and cultural resource management strategies for the Outstanding Natural Area, to be developed in consultation with appropriate departments of the State, the Local Partners, and the Commandant, with an emphasis on resource conservation in the

Outstanding Natural Area and the interpretive, educational, and long-term scientific uses of the resources; and

(F) recreational use strategies for the Outstanding Natural Area, to be prepared in consultation with the Local Partners, appropriate departments of the State, and the Coast Guard, with an emphasis on passive recreation.

(5) Interim plan

Until a management plan is adopted for the Outstanding Natural Area, the Jupiter Inlet Coordinated Resource Management Plan (including any updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) shall be in effect.

(d) Management of the Jupiter Inlet Lighthouse Outstanding Natural Area

(1) Management

(A) In general

The Secretary, in consultation with the Local Partners and the Commandant, shall manage the Outstanding Natural Area—

- (i) as part of the National Landscape Conservation System;
- (ii) in a manner that conserves, protects, and enhances the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of the Outstanding Natural Area, including an emphasis on the restoration of native ecological systems; and
- (iii) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws.

(B) Limitation

In managing the Outstanding Natural Area, the Secretary shall not take any action that precludes, prohibits, or otherwise affects the conduct of ongoing or future Coast Guard operations or activities on lots 16 and 18, as depicted on the map.

(2) Uses

Subject to valid existing rights and subsection (e), the Secretary shall only allow uses of the Outstanding Natural Area that the Secretary, in consultation with the Commandant and Local Partners, determines would likely further the purposes for which the Outstanding Natural Area is established.

(3) Cooperative agreements

To facilitate implementation of the management plan and to continue the successful partnerships with local communities and other partners, the Secretary may, in accordance with section 307(b) of the Federal Land Management¹ Policy and Management Act of 1976 (43 U.S.C. 1737(b)), enter into cooperative agreements with the appropriate Federal, State, county, other local government agencies, and other partners (including the Loxahatchee River Historical Society) for the

¹ So in original. The word “Management” probably should not appear.

long-term management of the Outstanding Natural Area.

(4) Research activities

To continue successful research partnerships, pursue future research partnerships, and assist in the development and implementation of the management plan, the Secretary may, in accordance with section 307(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(a)), authorize the conduct of appropriate research activities in the Outstanding Natural Area for the purposes described in subsection (b)(2).

(5) Acquisition of land

(A) In general

Subject to subparagraph (B), the Secretary may acquire for inclusion in the Outstanding Natural Area any State or private land or any interest in State or private land that is—

- (i) adjacent to the Outstanding Natural Area; and
- (ii) identified in the management plan as appropriate for acquisition.

(B) Means of acquisition

Land or an interest in land may be acquired under subparagraph (A) only by donation, exchange, or purchase from a willing seller with donated or appropriated funds.

(C) Additions to the Outstanding Natural Area

Any land or interest in land adjacent to the Outstanding Natural Area acquired by the United States after May 8, 2008, under subparagraph (A) shall be added to, and administered as part of, the Outstanding Natural Area.

(6) Law enforcement activities

Nothing in this section, the management plan, or the Jupiter Inlet Coordinated Resource Management Plan (including any updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) precludes, prohibits, or otherwise affects—

- (A) any maritime security, maritime safety, or environmental protection mission or activity of the Coast Guard;
- (B) any border security operation or law enforcement activity by the Department of Homeland Security or the Department of Justice; or
- (C) any law enforcement activity of any Federal, State, or local law enforcement agency in the Outstanding Natural Area.

(7) Future disposition of Coast Guard facilities

If the Commandant determines, after May 8, 2008, that Coast Guard facilities within the Outstanding Natural Area exceed the needs of the Coast Guard, the Commandant may relinquish the facilities to the Secretary without removal, subject only to any environmental remediation that may be required by law.

(e) Effect on ongoing and future Coast Guard operations

Nothing in this section, the management plan, or the Jupiter Inlet Coordinated Resource Man-

agement Plan (including updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) precludes, prohibits, or otherwise affects ongoing or future Coast Guard operations or activities in the Outstanding Natural Area, including—

- (1) the continued and future operation of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the Coast Guard High Frequency antenna site on lot 16;
- (2) the continued and future operation of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the military family housing area on lot 18;
- (3) the continued and future use of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the pier on lot 18;
- (4) the existing lease of the Jupiter Inlet Lighthouse on lot 18 from the Coast Guard to the Loxahatchee River Historical Society; or
- (5) any easements or other less-than-fee interests in property appurtenant to existing Coast Guard facilities on lots 16 and 18.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section. (Pub. L. 110-229, title II, §202, May 8, 2008, 122 Stat. 763.)

Editorial Notes

REFERENCES IN TEXT

The Executive Order dated October 22, 1854, and Executive Order No. 4254 (June 12, 1925), referred to in subsec. (b)(4)(B)(i), (ii), were not classified to the Code.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (d)(1)(A)(iii), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Consolidated Natural Resources Act of 2008, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

CHAPTER 36—OUTER CONTINENTAL SHELF RESOURCE MANAGEMENT

- Sec. 1801. Congressional findings.
- 1802. Congressional declaration of purposes.

SUBCHAPTER I—OFFSHORE OIL SPILL POLLUTION FUND

1811 to 1824. Repealed.

SUBCHAPTER II—FISHERMEN'S CONTINGENCY FUND

- 1841. Definitions.
- 1842. Fishermen's Contingency Fund.
- 1843. Duties and powers of Secretary.
- 1844. Burden of proof.
- 1845. Claims procedure.
- 1846, 1847. Repealed.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

- 1861. Repealed.