

purposes, and for the purposes of the milling and reduction of ores, during the period of their beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

(Feb. 1, 1905, ch. 288, § 4, 33 Stat. 628.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

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

SAVINGS PROVISION

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 525. Rights-of-way for wagon roads or railroads

In the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any national forest when in his judgment the public interests will not be injuriously affected thereby.

(Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1233.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

As originally enacted, this section contained following the word “forest” the words “or reservoir site”. See sections 665 and 958 of Title 43, Public Lands, which represent the phase of the section here omitted.

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

SAVINGS PROVISION

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 526. Establishment and protection of water rights

There are authorized to be appropriated for expenditure by the Forest Service such sums as

may be necessary for the investigation and establishment of water rights, including the purchase thereof or of lands or interests in lands or rights-of-way for use and protection of water rights necessary or beneficial in connection with the administration and public use of the national forests.

(Sept. 21, 1944, ch. 412, title II, § 213, 58 Stat. 737.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

INTERIM MORATORIUM ON BYPASS FLOWS

Pub. L. 104-127, title III, § 389, Apr. 4, 1996, 110 Stat. 1021, as amended by Pub. L. 104-180, title VII, § 736, Aug. 6, 1996, 110 Stat. 1607, provided that:

“(a) MORATORIUM.—There shall be a 20-month moratorium on any Forest Service decision to require by-pass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

“(b) LIMITATIONS.—Subsection (a) shall not affect—

“(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

“(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

“(c) RULES OF CONSTRUCTION.—

“(1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

“(2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

“(d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—

“(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act [Apr. 4, 1996], there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

“(2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:

“(A) 1 member shall be appointed by the Secretary of Agriculture.

“(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

“(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

“(3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—

“(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

“(B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;

“(C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;

“(D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and

“(E) measures that would be useful in avoiding or resolving conflicts between the Forest Service’s re-

sponsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

“(4) FINAL REPORT.—As soon as practicable, but not later than 14 months, after the date of enactment of this Act [Apr. 4, 1996], the Task Force shall provide the final report of the Task Force to—

“(A) the Secretary of Agriculture;

“(B) the Speaker of the House of Representatives;

“(C) the President pro tempore of the Senate;

“(D) the Chairman of the Committee on Agriculture of the House of Representatives;

“(E) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

“(F) the Chairman of the Committee on Resources [now Committee on Natural Resources] of the House of Representatives; and

“(G) the Chairman of the Committee on Energy and Natural Resources of the Senate.

“(5) AUTHORIZATION OF FUNDS.—The Secretary of Agriculture shall use funds made available for salaries and administrative expenses of the Department of Agriculture to carry out this subsection.

“(e) EXTENSION FOR DELAY.—There shall be a day-for-day extension to the 20-month moratorium required by subsection (a) and a day-for-day extension to the report required by subsection (d)(4)—

“(1) for every day of delay in implementing or establishing the Water Rights Task Force caused by a failure to nominate Task Force members by the Administration or by the Congress; or

“(2) for every day of delay caused by a failure by the Secretary of Agriculture to identify adequate resources as determined by the Secretary of Agriculture to carry out the purposes of the Task Force.”

§ 527. Use of Forest Service funds for administration of certain lands

The Forest Service may expend funds available for national forest protection and management for the administration of lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted under the Act of March 1, 1911, and the Act of June 7, 1924, and lands transferred to the Forest Service for administration.

(Sept. 21, 1944, ch. 412, title II, §211, 58 Stat. 737.)

REFERENCES IN TEXT

Act of March 1, 1911, referred to in text, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

Act of June 7, 1924, referred to in text, is act June 7, 1924, ch. 348, 43 Stat. 653, which is classified to sections 471, 499, 505, 515, 564, 565, 566, 567, 568, 569, and 570 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

§ 528. Development and administration of renewable surface resources for multiple use and sustained yield of products and services; Congressional declaration of policy and purpose

It is the policy of the Congress that the national forests are established and shall be ad-

ministered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of sections 528 to 531 of this title are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in section 475 of this title. Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on the national forests. Nothing herein shall be construed so as to affect the use or administration of the mineral resources of national forest lands or to affect the use or administration of Federal lands not within national forests.

(Pub. L. 86-517, §1, June 12, 1960, 74 Stat. 215.)

SHORT TITLE

Section 5 of Pub. L. 86-517, as added Pub. L. 94-588, §19, Oct. 22, 1976, 90 Stat. 2962, provided that: “This Act [enacting this section and sections 529 to 531 of this title] may be cited as the ‘Multiple-Use Sustained-Yield Act of 1960’.”

PILOT PROGRAM OF CHARGES AND FEES FOR HARVEST OF FOREST BOTANICAL PRODUCTS

Pub. L. 106-113, div. B, §1000(a)(3) [title III, §339], Nov. 29, 1999, 113 Stat. 1535, 1501A-199, as amended by Pub. L. 108-108, title III, §335, Nov. 10, 2003, 117 Stat. 1312; Pub. L. 111-88, div. A, title IV, §420, Oct. 30, 2009, 123 Stat. 2960, provided that:

“(a) DEFINITION OF FOREST BOTANICAL PRODUCT.—For purposes of this section, the term ‘forest botanical product’ means any naturally occurring mushrooms, fungi, flowers, seeds, roots, bark, leaves, and other vegetation (or portion thereof) that grow on National Forest System lands. The term does not include trees, except as provided in regulations issued under this section by the Secretary of Agriculture.

“(b) RECOVERY OF FAIR MARKET VALUE FOR PRODUCTS.—The Secretary of Agriculture shall develop and implement a pilot program to charge and collect fees under subsection (c) for forest botanical products harvested on National Forest System lands. The Secretary shall establish appraisal methods and bidding procedures to determine the fair market value of forest botanical products harvested under the pilot program.

“(c) FEES.—

“(1) IMPOSITION AND COLLECTION.—Under the pilot program, the Secretary of Agriculture shall charge and collect from a person who harvests forest botanical products on National Forest System lands a fee in an amount established by the Secretary to recover at least a portion of the fair market value of the harvested forest botanical products and a portion of the costs incurred by the Department of Agriculture associated with granting, modifying, or monitoring the authorization for harvest of the forest botanical products, including the costs of any environmental or other analysis.

“(2) SECURITY.—The Secretary may require a person assessed a fee under this subsection to provide security to ensure that the Secretary receives the fees imposed under this subsection from the person.

“(d) SUSTAINABLE HARVEST LEVELS FOR FOREST BOTANICAL PRODUCTS.—The Secretary of Agriculture shall conduct appropriate analyses to determine whether and how the harvest of forest botanical products on National Forest System lands can be conducted on a sustainable basis. The Secretary may not permit under the pilot program the harvest of forest botanical products at levels in excess of sustainable harvest levels, as defined pursuant to the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.). The Secretary shall establish procedures and timeframes to monitor and revise the harvest levels established for forest botanical products.