

proval 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 fi-

ancing 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 reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the 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.