

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.

(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.