

§ 1278. Restrictions on water resources projects**(a) Construction projects licensed by Federal Energy Regulatory Commission**

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 1274 of this title as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of designation of a river as a component of the National Wild and Scenic Rivers System. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this chapter and would affect the component and the values to be protected by it under this chapter. Any license heretofore or hereafter issued by the Federal Energy Regulatory Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the National Wild and Scenic Rivers System pursuant to section 1273 of this title and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

(b) Construction projects on rivers designated for potential addition to system

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended [16 U.S.C. 791a et seq.], on or directly affecting any river which is listed in section 1276(a) of this title, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the

values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the ten-year period following October 2, 1968, or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register: *Provided*, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and

(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and

(iii) during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system under section 1273(a)(ii) of this title, is necessary for the Secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of designation of a river for study as provided for in section 1276 of this title. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this chapter and

would affect the component and the values to be protected by it under this chapter.

(c) Activities in progress affecting river of system; notice to Secretary

The Federal Energy Regulatory Commission and all other Federal agencies shall, promptly upon enactment of this chapter, inform the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, of any proceedings, studies, or other activities within their jurisdiction which are now in progress and which affect or may affect any of the rivers specified in section 1276(a) of this title. They shall likewise inform him of any such proceedings, studies, or other activities which are hereafter commenced or resumed before they are commenced or resumed.

(d) Grants under chapter 2003 of title 54

Nothing in this section with respect to the making of a loan or grant shall apply to grants made under chapter 2003 of title 54.

(Pub. L. 90-542, §7, Oct. 2, 1968, 82 Stat. 913; Pub. L. 93-279, §1(b)(3), (4), May 10, 1974, 88 Stat. 123; Pub. L. 93-621, §1(c), Jan. 3, 1975, 88 Stat. 2096; Pub. L. 94-407, §1(2), Sept. 11, 1976, 90 Stat. 1238; Pub. L. 95-91, title IV, §402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583; Pub. L. 99-590, title V, §505, Oct. 30, 1986, 100 Stat. 3336; Pub. L. 103-437, §6(a)(7), Nov. 2, 1994, 108 Stat. 4583; Pub. L. 113-287, §5(d)(30), Dec. 19, 2014, 128 Stat. 3267.)

Editorial Notes

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (a) and (b), is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

CODIFICATION

In subsec. (d) text, the words “(78 Stat. 897; 16 U.S.C. 460l-5 et seq.)” were omitted following “chapter 2003 of title 54” in view of the amendment by Pub. L. 113-287. See 2014 Amendment note below.

AMENDMENTS

2014—Subsec. (d). Pub. L. 113-287 substituted “chapter 2003 of title 54” for “the Land and Water Conservation Fund Act of 1965”.

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

1986—Subsec. (a). Pub. L. 99-590, §505(a), substituted provisions relating to values present in the area on the date of designation of a river as a component of the System, for provisions relating to values present in the area on Oct. 2, 1968.

Subsec. (b). Pub. L. 99-590, §505(b), added cl. (ii), redesignated former cl. (ii) as (iii), and substituted provisions relating to values present in the area on the date of designation of a river for study pursuant to section 1276 of this title for provisions relating to values present in the area on the date of approval of this chapter.

1976—Subsec. (a). Pub. L. 94-407 inserted provision relating to licenses issued affecting the New River of North Carolina.

1975—Subsec. (b)(i). Pub. L. 93-621 inserted proviso that if any Act provides a time period for study in excess of the three fiscal year period, that period shall be

substituted for the three complete fiscal year period provision of cl. (i).

1974—Subsec. (b)(i). Pub. L. 93-279, §1(b)(3), substituted provisions that construction projects may not be licensed or assisted before Oct. 2, 1978, or for a three year period following inclusion of a river in the list of rivers for potential addition to the national wild and scenic river system, unless, prior to that period, the Secretary of the Interior or the Secretary of Agriculture, as the case may be, determined that such river should not be so included and notified the Committees on Interior and Insular Affairs, before publication in the Federal Register, for provisions that such projects may not be licensed or assisted before Oct. 2, 1973, unless, prior to that period, the Secretary of the Interior or the Secretary of Agriculture, as the case may be, concluded that such river should not be so included and published notice to that effect in the Federal Register.

Subsec. (b)(ii). Pub. L. 93-279, §1(b)(4), substituted “the report for which is submitted to the President and the Congress, is necessary” for “which is recommended to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary”.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

“Federal Energy Regulatory Commission” substituted for “Federal Power Commission” in subsecs. (a), (b), and (c) pursuant to Pub. L. 95-91, §402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated, and its functions with regard to licenses and permits for dams, reservoirs, or other works for development and improvement of navigation and for development and utilization of power across, along, from, or in navigable waters under part I of Federal Power Act (16 U.S.C. 792 et seq.) were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42.

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter and such 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 this chapter with respect to pre-construction, construction, and initial operation of transportation system 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.

§ 1279. Withdrawal of public lands from entry, sale, or other disposition under public land laws

(a) Lands within authorized boundaries of components of system

All public lands within the authorized boundaries of any component of the national wild and scenic rivers system which is designated in section 1274 of this title or which is designated after October 2, 1968, for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States. This subsection shall not be construed to limit the authorities granted in section 1277(d) or section 1285a of this title.

(b) Lands constituting bed or bank of river; lands within bank area

All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section 1276(a) of this title are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 1278(b) of this title. Notwithstanding the foregoing provisions of this subsection or any other provision of this chapter, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 1276(a) of this title are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section 1278(b) of this title.

(Pub. L. 90-542, § 8, Oct. 2, 1968, 82 Stat. 915; Pub. L. 96-487, title VI, § 606(c), Dec. 2, 1980, 94 Stat. 2417; Pub. L. 99-590, title V, § 506, Oct. 30, 1986, 100 Stat. 3336.)

Editorial Notes

REFERENCES IN TEXT

The public land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

The Alaska Native Claims Settlement Act, referred to in subsec. (b), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-590 inserted provisions relating to construction of subsec. (a) with respect to authorities granted in section 1277(d) or 1285a of this title.

1980—Subsec. (b). Pub. L. 96-487 inserted provision withdrawing, subject to valid existing rights, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in section 1276(a)(77) through (88) of this title, from entry, sale, State selection or other disposition under the public land laws for periods specified in section 1278(b) of this title.

§ 1280. Federal mining and mineral leasing laws

(a) Applicability to components of system

Nothing in this chapter shall affect the applicability of the United States mining and mineral leasing laws within components of the national wild and scenic rivers system except that—

(i) all prospecting, mining operations, and other activities on mining claims which, in the case of a component of the system designated in section 1274 of this title, have not heretofore been perfected or which, in the case of a component hereafter designated pursuant to this chapter or any other Act of Congress, are not perfected before its inclusion in the system and all mining operations and other activities under a mineral lease, license, or permit issued or renewed after inclusion of a component in the system shall be subject to such regulations as the Secretary of the Interior or, in the case of national forest lands, the Secretary of Agriculture may prescribe to effectuate the purposes of this chapter;

(ii) subject to valid existing rights, the perfection of, or issuance of a patent to, any mining claim affecting lands within the system shall confer or convey a right or title only to the mineral deposits and such rights only to the use of the surface and the surface resources as are reasonably required to carrying on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary of the Interior or, in the case of national forest lands, by the Secretary of Agriculture; and

(iii) subject to valid existing rights, the minerals in Federal lands which are part of the system and constitute the bed or bank or are situated within one-quarter mile of the bank of any river designated a wild river under this chapter or any subsequent Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Regulations issued pursuant to paragraphs (i) and (ii) of this subsection shall, among other things, provide safeguards against pollution of the river involved and unnecessary impairment of the scenery within the component in question.

(b) Withdrawal from appropriation of minerals in Federal river beds or bank areas; prospecting, leases, licenses, and permits

The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 1276(a) of this title are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 1278(b) of this title. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance of leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system. Notwith-