

of timber made in accordance with applicable timber sale contract provisions, then an adjustment to the price paid for timber harvested by the purchaser shall be made. The adjustment shall be applied by the Secretary as soon as practicable after any such design change is implemented.

(c) Special election by small business concerns

(1) A notice of sale referred to in subsection (b) containing specified road construction of \$50,000 or more, shall give a purchaser of national forest timber or other forest products that qualifies as a “small business concern” under the Small Business Act (15 U.S.C. 631 et seq.), and regulations issued thereunder, the option to elect that the Secretary of Agriculture build the roads described in the notice. The Secretary shall provide the small business concern with an estimate of the cost that would be incurred by the Secretary to construct the roads on behalf of the small business concern. The notice of sale shall also include the date on which the roads described in the notice will be completed by the Secretary if the election is made.

(2) If the election referred to in paragraph (1) is made, the purchaser of the national forest timber or other forest products shall pay to the Secretary of Agriculture, in addition to the price paid for the timber or other forest products, an amount equal to the estimated cost of the roads which otherwise would be paid by the purchaser as provided in the notice of sale. Pending receipt of such amount, the Secretary may use receipts from the sale of national forest timber or other forest products and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to accomplish the requested road construction.

(d) Authorization of harvesting

In each sale of national forest timber or other forest products referred to in this section, the Secretary of Agriculture is encouraged to authorize harvest of the timber or other forest products in a unit included in the sale as soon as road work for that unit is completed and the road work is approved by the Secretary.

(e) Construction standard

For any forest development road that is to be constructed or paid for by a purchaser of national forest timber or other forest products, the Secretary of Agriculture may not require the purchaser to design, construct, or maintain the road (or pay for the design, construction, or maintenance of the road) to a standard higher than the standard, consistent with applicable environmental laws and regulations, that is sufficient for the harvesting and removal of the timber or other forest products, unless the Secretary bears that part of the cost necessary to meet the higher standard.

(f) Treatment of road value

For any forest development road that is constructed or paid for by a purchaser of national forest timber or other forest products, the estimated cost of the road construction, including subsequent design changes, shall be considered to be money received for purposes of the pay-

ments required to be made under section 500 of this title. To the extent that the appraised value of road construction determined under this subsection reflects funds contributed by the Secretary of Agriculture to build the road to a higher standard pursuant to subsection (e), the Secretary shall modify the appraisal of the road construction to exclude the effect of the Federal funds.

(g) Effective date

(1) This section and the requirements of this section shall take effect (and apply thereafter) upon the earlier of—

(A) April 1, 1999; or

(B) the date that is the later of—

(i) the effective date of regulations issued by the Secretary of Agriculture to implement this section; and

(ii) the date on which new timber sale contract provisions designed to implement this section, that have been published for public comment, are approved by the Secretary.

(2) Notwithstanding paragraph (1), any sale of national forest timber or other forest products for which notice of sale is provided before the effective date of this section, and any effective purchaser road credit earned pursuant to a contract resulting from such a notice of sale or otherwise earned before that effective date shall remain in effect, and shall continue to be subject to section 535 of this title and section 472a(i) of this title, and rules issued thereunder, as in effect on the day before October 21, 1998.

(Pub. L. 105-277, div. A, §101(e) [title III, §329], Oct. 21, 1998, 112 Stat. 2681-231, 2681-292.)

Editorial Notes

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (c)(1), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

§536. Recording of instruments; furnishing of instruments affecting public domain lands to Secretary of the Interior

Copies of all instruments affecting permanent interests in land executed pursuant to sections 532 to 538 of this title shall be recorded in each county where the lands are located. Copies of all instruments affecting interests in lands reserved from the public domain shall be furnished to the Secretary of the Interior.

(Pub. L. 88-657, §5, Oct. 13, 1964, 78 Stat. 1089.)

§537. Maintenance and reconstruction by road users; funds for maintenance and reconstruction; availability of deposits until expended, transfer of funds, and refunds

The Secretary may require the user or users of a road under the control of the Forest Service, including purchasers of Government timber and other products, to maintain such roads in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be propor-

tionate to total use. The Secretary may also require the user or users of such a road 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 purpose 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.

(Pub. L. 88-657, § 6, Oct. 13, 1964, 78 Stat. 1090.)

Executive Documents

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under sections 532 to 538 of this title to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 533 of this title.

§ 538. User fees fund for delayed payments to grantors

Whenever the agreement under which the United States has obtained for the use of, or in connection with, the national forests and other lands administered by the Forest Service 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. 88-657, § 7, Oct. 13, 1964, 78 Stat. 1090.)

§ 538a. Forest Service Legacy Road and Trail Remediation Program

(a) Establishment

The Secretary shall establish the Forest Service Legacy Road and Trail Remediation Program (referred to in this section as the "Program").

(b) Activities

In carrying out the Program, the Secretary shall, taking into account foreseeable changes in weather and hydrology—

(1) restore passages for fish and other aquatic species by—

(A) improving, repairing, or replacing culverts and other infrastructure; and

(B) removing barriers, as the Secretary determines appropriate, from the passages;

(2) decommission unauthorized user-created roads and trails that are not a National Forest System road or a National Forest System trail, if the applicable unit of the National Forest System has published—

(A) a Motor Vehicle Use Map and the road is not identified as a National Forest System road on that Motor Vehicle Use Map; or

(B) a map depicting the authorized trails in the applicable unit of the National Forest System and the trail is not identified as a National Forest System trail on that map;

(3) prepare previously closed National Forest System roads for long-term storage, in accordance with subsections (c)(1) and (d), in a manner that—

(A) prevents motor vehicle use, as appropriate to conform to route designations;

(B) prevents the roads from damaging adjacent resources, including aquatic and wildlife resources;

(C) reduces or eliminates the need for road maintenance; and

(D) preserves the roads for future use;

(4) decommission previously closed National Forest System roads and trails in accordance with subsections (c)(1) and (d);

(5) relocate National Forest System roads and trails—

(A) to increase resilience to extreme weather events, flooding, and other natural disasters; and

(B) to respond to changing resource conditions and public input;

(6) convert National Forest System roads to National Forest System trails, while allowing for continued use for motorized and non-motorized recreation, to the extent the use is compatible with the management status of the road or trail;

(7) decommission temporary roads—

(A) that were constructed before November 15, 2021—

(i) for emergency operations; or

(ii) to facilitate a resource extraction project;

(B) that were designated as a temporary road by the Secretary; and

(C)(i) in violation of section 1608(b) of this title, on which vegetation cover has not been reestablished; or

(ii) that have not been fully decommissioned; and

(8) carry out projects on National Forest System roads, trails, and bridges to improve resilience to extreme weather events, flooding, or other natural disasters.

(c) Project selection

(1) Project eligibility

(A) In general

The Secretary may only fund under the Program a project described in paragraph (3) or (4) of subsection (b) if the Secretary previously and separately—

(i) solicited public comment for changing the management status of the applicable National Forest System road or trail—