

TITLE 16 - CONSERVATION
CHAPTER 2 - NATIONAL FORESTS
SUBCHAPTER I - ESTABLISHMENT AND ADMINISTRATION

§ 497b. Ski area permits

(a) Law applicable to permits

The provisions of the Act of March 4, 1915 (16 U.S.C. 497) notwithstanding, the term and acreage of permits for the operation of ski areas and associated facilities on National Forest System lands shall on and after October 22, 1986, be governed by this section and other applicable law.

(b) Authority

The Secretary of Agriculture (hereinafter referred to as “the Secretary”) is authorized to issue permits (hereinafter referred to as “ski area permits”) for the use and occupancy of suitable lands within the National Forest System for skiing and other snow sports and recreational uses authorized by this section. A ski area permit—

- (1) may be issued for a term not to exceed 40 years;
- (2) shall ordinarily be issued for a term of 40 years (unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation), or that there are public policy reasons specific to a particular permit for a shorter term;
- (3) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee’s needs for ski operations and appropriate ancillary facilities;
- (4) may be renewed at the discretion of the Secretary;
- (5) may be cancelled by the Secretary in whole or in part for any violation of the permit terms or conditions, for nonpayment of permit fees, or upon the determination by the Secretary in his planning for the uses of the national forests that the permitted area is needed for higher public purposes;
- (6) may be modified from time to time by the Secretary to accommodate changes in plans or operations in accordance with the provisions of applicable law;
- (7) shall be subject to such reasonable terms and conditions as the Secretary deems appropriate; and
- (8) shall be subject to a permit fee based on fair market value in accordance with applicable law.

(c) Other recreational uses

(1) Authority of Secretary

Subject to the terms of a ski area permit issued pursuant to subsection (b), the Secretary may authorize a ski area permittee to provide such other seasonal or year-round natural resource-based recreational activities and associated facilities (in addition to skiing and other snow-sports) on National Forest System land subject to a ski area permit as the Secretary determines to be appropriate.

(2) Requirements

Each activity and facility authorized by the Secretary under paragraph (1) shall—

- (A) encourage outdoor recreation and enjoyment of nature;
- (B) to the extent practicable—
 - (i) harmonize with the natural environment of the National Forest System land on which the activity or facility is located; and
 - (ii) be located within the developed portions of the ski area;
- (C) be subject to such terms and conditions as the Secretary determines to be appropriate; and
- (D) be authorized in accordance with—

- (i) the applicable land and resource management plan; and
- (ii) applicable laws (including regulations).

(3) Inclusions

Activities and facilities that may, in appropriate circumstances, be authorized under paragraph (1) include—

- (A) zip lines;
- (B) mountain bike terrain parks and trails;
- (C) frisbee golf courses; and
- (D) ropes courses.

(4) Exclusions

Activities and facilities that are prohibited under paragraph (1) include—

- (A) tennis courts;
- (B) water slides and water parks;
- (C) swimming pools;
- (D) golf courses; and
- (E) amusement parks.

(5) Limitation

The Secretary may not authorize any activity or facility under paragraph (1) if the Secretary determines that the authorization of the activity or facility would result in the primary recreational purpose of the ski area permit to be a purpose other than skiing and other snow-sports.

(6) Boundary determination

In determining the acreage encompassed by a ski area permit under subsection (b)(3), the Secretary shall not consider the acreage necessary for activities and facilities authorized under paragraph (1).

(7) Effect on existing authorized activities and facilities

Nothing in this subsection affects any activity or facility authorized by a ski area permit in effect on November 7, 2011, during the term of the permit.

(d) Regulations

Not later than 2 years after November 7, 2011, the Secretary shall promulgate regulations to implement this section.

(e) Construction with Secretary's duties under other laws

Nothing in this section shall be deemed to amend, modify or otherwise affect the Secretary's duties under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), including his duties to involve the public in his decisionmaking and planning for the national forests.

(Pub. L. 99–522, § 3, Oct. 22, 1986, 100 Stat. 3000; Pub. L. 112–46, § 3, Nov. 7, 2011, 125 Stat. 538.)

References in Text

Act of March 4, 1915 (16 U.S.C. 497), referred to in subsec. (a), is act Mar. 4, 1915, ch. 144, 38 Stat. 1086. For complete classification of this Act to the Code, see Tables.

This section, referred to in subssecs. (a), (b), and (e), was in the original “this Act”, meaning Pub. L. 99–522, Oct. 22, 1986, 100 Stat. 3000, known as the National Forest Ski Area Permit Act of 1986, which enacted this section and notes set out under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (e), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

Amendments

2011—Subsec. (a). Pub. L. 112–46, § 3(1), substituted “ski areas and associated facilities” for “nordic and alpine ski areas and facilities”.

Subsec. (b). Pub. L. 112–46, § 3(2), substituted “skiing and other snow sports and recreational uses authorized by this section” for “nordic and alpine skiing operations and purposes” in introductory provisions.

Subsec. (c). Pub. L. 112–46, § 3(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 112–46, § 3(5), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “Within one year after October 22, 1986, the Secretary shall promulgate rules and regulations to implement the provisions of this section, and shall, to the extent practicable and with the consent of existing permit holders, convert all existing ski area permits or leases on National Forest System lands into ski area permits which conform to the provisions of this section within 3 years of October 22, 1986.”

Pub. L. 112–46, § 3(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 112–46, § 3(6), substituted “the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.)” for “the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act”.

Pub. L. 112–46, § 3(3), redesignated subsec. (d) as (e).

Short Title of 2011 Amendment

Pub. L. 112–46, § 1, Nov. 7, 2011, 125 Stat. 538, provided that: “This Act [amending this section and enacting provisions set out as notes under this section] may be cited as the ‘Ski Area Recreational Opportunity Enhancement Act of 2011’.”

Short Title

Section 1 of Pub. L. 99–522 provided that: “This Act [enacting this section and provisions set out as a note below] may be cited as the ‘National Forest Ski Area Permit Act of 1986’.”

Effect

Pub. L. 112–46, § 4, Nov. 7, 2011, 125 Stat. 540, provided that: “Nothing in the amendments made by this Act [amending this section] establishes a legal preference for the holder of a ski area permit to provide activities and associated facilities authorized by section 3(c) of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b (c)) (as amended by section 3).”

Purposes

Pub. L. 112–46, § 2, Nov. 7, 2011, 125 Stat. 538, provided that: “The purpose of this Act [see Short Title of 2011 Amendment note above] is to amend the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b)—

“(1) to enable snow-sports (other than nordic and alpine skiing) to be permitted on National Forest System land subject to ski area permits issued by the Secretary of Agriculture under section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b); and

“(2) to clarify the authority of the Secretary of Agriculture to permit appropriate additional seasonal or year-round recreational activities and facilities on National Forest System land subject to ski area permits issued by the Secretary of Agriculture under section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b).”

Section 2 of Pub. L. 99–522 provided that: “The purposes of this Act [see Short Title note above] are to—

“(a) provide a unified and modern permitting process for nordic and alpine ski areas on national forest lands;

“(b) provide for ski area permits which more closely reflect the acreage and other physical requirements of modern ski area development; and

“(c) provide a permit system which will be more commensurate with the long-term construction, financing, and operation needs of ski areas on national forest lands.”