

16 U.S.C.A. § 497b

Effective: [See Text Amendments]

United States Code Annotated Currentness

Title 16. Conservation

▣ Chapter 2. National Forests

▣ Subchapter I. Establishment and Administration (Refs & Annos)

→ § 497b. Ski area permits

(a) Law applicable to permits

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

(b) Authority of Secretary of Agriculture

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 nordic and alpine skiing operations and purposes. 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) Rules and regulations

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

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3 years of October 22, 1986.

(d) 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 [42 U.S.C.A. § 4321 et seq.], or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act [16 U.S.C.A. § 1600 et seq.] including his duties to involve the public in his decisionmaking and planning for the national forests.

CREDIT(S)

(Pub.L. 99-522, § 3, Oct. 22, 1986, 100 Stat. 3000.)

HISTORICAL AND STATUTORY NOTES

References in Text

This section, referred to in subsecs. (a), (c), and (d), originally read "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 enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The National Environmental Policy Act, referred to in subsec. (d), is Pub.L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, known as the "National Environmental Policy Act of 1969", which is classified generally to chapter 55 (section 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.

The Forest and Rangelands Renewable Resources Planning Act, referred to in subsec. (d), probably means the Forest and Rangeland Renewable Resources Planning Act of 1974, Pub.L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (section 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.

The National Forest Management Act, referred to in subsec. (d), is Pub.L. 94-588, Oct. 22, 1976, 90 Stat. 2949, known as the "National Forest Management Act of 1976". For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

Short Title

1986 Acts. Pub.L. 99-522, § 1, Oct. 22, 1986, 100 Stat. 3000, provided that: "This Act [enacting this section and a provision set out as a note under this section] may be cited as the 'National Forest Ski Area Permit Act of 1986'."

Congressional Statement of Purposes

Pub.L. 99-522, § 2, Oct. 22, 1986, 100 Stat. 3000, provided that:

"The purposes of this Act [enacting this section and a provision set out as a note under this section] are to--

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


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"(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."

LIBRARY REFERENCES

American Digest System

United States 40, 57.

Key Number System Topic No. 393.

Woods and Forests 5.

Key Number System Topic No. 411.

RESEARCH REFERENCES

Encyclopedias

45 Am. Jur. Proof of Facts 3d 115, Liability of Ski Area Operator for Skiing Accident.

46 Am. Jur. Proof of Facts 3d 1, Liability of Skier for Collision With Another Skier.


NOTES OF DECISIONS

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1. Nature of permit

For reviewing purposes, Court of Appeals treated term special use permit issued by Forest Service to ski resort owner as contract for purposes of deciding how much weight to give interpretation by Forest Service of one of its nontechnical terms contained in permit. *Meadow Green-Wildcat Corp. v. Hathaway*, C.A.1 (N.H.) 1991, 936 F.2d 601. Woods And Forests  8

2. Fee calculations

Forest Service lacked legal power to change retroactively gross fixed assets used to calculate ski resort owner's investment in ski area assets for purposes of assessing permit fees, and thus, Forest Service lacked power to retroactively assess increased fee for prior years pursuant to provision in permit permitting retroactive adjustment in fees due to error in gross fixed assets (GFA) calculations. *Meadow Green-Wildcat Corp. v. Hathaway*, C.A.1 (N.H.) 1991, 936 F.2d 601. Woods And Forests  8

3. Review

"Error," as used in term special use permit issued by Forest Service to ski resort operator for purposes of allowing retroactive

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fee adjustment, did not include retroactive revisions to gross fixed assets (GFA) figure which reflected officer's reasonable interpretation of ambiguous manual instruction which Service later decided to interpret differently; "error" meant only such mechanical and fact-related matters such as arithmetical mistakes, mistakes in calculation, misreporting of asset values, and the like and perhaps Service officer's failure to follow clear instruction in publicly available Forest Service manual in calculating GFA figure. *Meadow Green-Wildcat Corp. v. Hathaway*, C.A.1 (N.H.) 1991, 936 F.2d 601. Woods And Forests ↩

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