

# National Forest Management Act

## 16 U.S.C. §§1600-1687

### Subchapter Iô Planning

#### §1600. [NFMA §2]

##### Congressional findings

The Congress finds thatô

(1) the management of the Nationô renewable resources is highly complex and the uses, demand for, and supply of the various resources are subject to change over time;

(2) the public interest is served by the Forest Service, Department of Agriculture, in cooperation with other agencies, assessing the Nationô renewable resources, and developing and preparing a national renewable resource program, which is periodically reviewed and updated;

(3) to serve the national interest, the renewable resource program must be based on a comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nationô public and private forests and rangelands, through analysis of environmental and economic impacts, coordination of multiple use and sustained yield opportunities as provided in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531), and public participation in the development of the program;

(4) the new knowledge derived from coordinated public and private research programs will promote a sound technical and ecological base for effective management, use, and protection of the Nationô renewable resources;

(5) inasmuch as the majority of the Nationô forests and rangeland is under private, State, and local governmental management and the Nationô major capacity to produce goods and services is based on these nonfederally managed renewable resources, the Federal Government should be a catalyst to encourage and assist these owners in the efficient long-term use and improvement of these lands and their renewable resources consistent with the principles of sustained yield and multiple use;

(6) the Forest Service, by virtue of its statutory authority for management of the National Forest System, research and cooperative programs, and its role as an agency in the Department of Agriculture, has both a responsibility and an opportunity to be a leader in assuring that the Nation maintains a natural resource conservation posture that will meet the requirements of our people in perpetuity; and

(7) recycled timber product materials are as much a part of our renewable forest resources as are the trees from which they originally came, and in order to extend our timber and timber fiber resources and reduce pressures for timber production from Federal lands, the Forest Service should expand its research in the use of recycled and waste timber product materials, develop techniques for the substitution of these secondary materials for primary materials, and promote and encourage the use of recycled timber product materials.

(Pub. L. 93-378, §2, as added Pub. L. 94-588, §2, Oct. 22, 1976, 90 Stat. 2949.)

##### References In Text

The Multiple-Use Sustained-Yield Act of 1960, referred to in par. (3), is Pub. L. 86-517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

##### Short Title Of 1988 Amendments

Pub. L. 100-521, Sec. 1, Oct. 24, 1988, 102 Stat. 2601, provided that: ôThis Act [amending section 1642 of this title and enacting provisions set out as a note under section 1642 of this title] may be cited as the ôForest Ecosystems and Atmospheric Pollution Research Act of 1988ö

Pub. L. 100-231, Sec. 1, Jan. 5, 1988, 101 Stat. 1565, provided that: ôThis Act [amending sections 1674 and 1675 of this title and provisions set out as a note under section 1671 of this title] may be cited as the ôRenewable Resources Extension Act Amendments of 1987ö

##### Short Title Of 1980 Amendment

Pub. L. 96-554, Sec. 1, Dec. 19, 1980, 94 Stat. 3257, provided: ôThat this Act [en-

acting subchapter IV of this chapter and enacting provision set out as a note under section 1681 of this title] may be cited as the ôWood Residue Utilization Act of 1980ö

##### Short Title Of 1978 Amendments

Pub. L. 95-307, Sec. 1, June 30, 1978, 92 Stat. 353, provided: ôThat this Act [enacting subchapter II of this chapter, repealing sections 581 to 581i of this title, and enacting provisions set out as a note under section 1641 of this title] may be cited as the ôForest and Rangeland Renewable Resources Research Act of 1978ö

Pub. L. 95-306, Sec. 1, June 30, 1978, 92 Stat. 349, provided: ôThat this Act [enacting subchapter III of this chapter and provision set out as a note under section 1671 of this title] may be cited as the ôRenewable Resources Extension Act of 1978ö

##### Short Title Of 1976 Amendment

Section 1 of Pub. L. 94-588 provided: ôThat this Act [enacting this section and sections 472a, 521b, and 1611 to 1614 of this title, amending sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealing sections 476, 513 and 514 of this title, and enacting provisions set out as notes under this section and sections 476, 513, 528, and 594-2 of this title] may be cited as the ôNational Forest Management Act of 1976ö

##### Short Title

Section 1 of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, provided: ôThat this Act [enacting this subchapter and amending section 581h of this title] may be cited as the ôForest and Rangeland Renewable Resources Planning Act of 1974ö

##### Separability

Section 21 of Pub. L. 94-588 provided that: ôIf any provision of this Act [see Short Title of 1976 Amendment note set out above] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.ö

#### §1601. [NFMA §3]

##### Renewable Resource Assessment

(a) Preparation by Secretary of Agriculture; time of preparation, updating and contents

In recognition of the vital importance of Americaô renewable resources of the forest, range, and other associated lands to the Nationô social and economic well-being, and of the necessity for a long term perspective in planning and undertaking related national renewable resource programs administered by the Forest Service, the Secretary of Agriculture shall prepare a Renewable Resource Assessment (hereinafter called the ôAssessmentö). The Assessment shall be prepared not later than December 31, 1975, and shall be updated during 1979 and each tenth year thereafter, and shall include but not be limited toô

(1) an analysis of present and anticipated uses, demand for, and supply of the renewable resources, with consideration of the international resource situation, and an emphasis of pertinent supply and demand and price relationship trends;

(2) an inventory, based on information developed by the Forest Service and other Federal agencies, of present and potential renewable resources, and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government;

(3) a description of Forest Service programs and responsibilities in research, cooperative programs and management of the National Forest System, their interrelationships, and the relationship of these programs and responsibilities to public and private activities;

(4) a discussion of important policy considerations, laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands; and<sup>1</sup>

(5) an analysis of the potential effects of global climate change on the condition of renewable resources on the forests and rangelands of the United States; and

(6) an analysis of the rural and urban forestry opportunities to

1. So in original. The word ôandö probably should not appear.

mitigate the buildup of atmospheric carbon dioxide and reduce the risk of global climate change,<sup>2</sup>

(b) Omitted

(c) Contents of Assessments

The Secretary shall report in the 1979 and subsequent Assessments on:

(1) the additional fiber potential in the National Forest System including, but not restricted to, forest mortality, growth, salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations;

(2) the potential for increased utilization of forest and wood product wastes in the National Forest System and on other lands, and of urban wood wastes and wood product recycling, including recommendations to the Congress for actions which would lead to increased utilization of material now being wasted both in the forests and in manufactured products; and

(3) the milling and other wood fiber product fabrication facilities and their location in the United States, noting the public and private forested areas that supply such facilities, assessing the degree of utilization into product form of harvested trees by such facilities, and setting forth the technology appropriate to facilities to improve utilization either individually or in aggregate the units of harvested trees and to reduce wasted wood fibers. The Secretary shall set forth a program to encourage the adoption by these facilities of these technologies for improving wood fiber utilization.

(d)<sup>3</sup> Public involvement; consultation with governmental departments and agencies

In developing the reports required under subsection (c) of this section, the Secretary shall provide opportunity for public involvement and shall consult with other interested governmental departments and agencies.

(d)<sup>4</sup> Congressional policy of multiple use sustained yield management; examination and certification of lands; estimate of appropriations necessary for reforestation and other treatment; budget requirements; authorization of appropriations

(1) It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary is directed to identify and report to the Congress annually at the time of submission of the President's budget together with the annual report provided for under section 1606(c) of this title, beginning with submission of the President's budget for fiscal year 1978, the amount and location by forests and States and by productivity class, where practicable, of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate of growth. All national forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to stocking rate, growth rate in relation to potential and other pertinent measures. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.

(2) Notwithstanding the provisions of section 1607 of this title, the Secretary shall annually for eight years following October 22, 1976, transmit to the Congress in the manner provided in this subsection an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year, plus a sufficient portion of the backlog of lands found to be in need

of treatment to eliminate the backlog within the eight-year period. After such eight-year period, the Secretary shall transmit annually to the Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary's estimate of sums necessary, in addition to the sums available under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually for inclusion in the President's budget and shall also be transmitted to the Speaker of the House and the President of the Senate together with the annual report provided for under section 1606(c) of this title at the time of submission of the President's budget to the Congress beginning with the budget for fiscal year 1978. The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforesting and treating lands in the National Forest System \$200,000,000 annually to meet requirements of this subsection (d). All sums appropriated for the purposes of this subsection shall be available until expended.

(e) Report on herbicides and pesticides

The Secretary shall submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides used in the National Forest System, including the beneficial or adverse effects of such uses.

(Pub. L. 93-378, §3 formerly §2, Aug. 17, 1974, 88 Stat. 476, renumbered §3 and amended Pub. L. 94-588, §2-4, Oct. 22, 1976, 90 Stat. 2949, 2950; Pub. L. 101-624, title XXIV, §2408(a), Nov. 28, 1990, 104 Stat. 4061.)

Codification

Subsec. (b) of this section amended section 581h of this title.

Termination Of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsecs. (d)(1) and (e) of this section relating to submitting annual reports to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 45 and 47 of House Document No. 103-7.

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 this subchapter and system activities requiring coordination and approval under general authorities of this subchapter 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, Secs. 102(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.

Presidential Commission On State And Private Forests

Pub. L. 101-624, title XII, Sec. 1245, Nov. 28, 1990, 104 Stat. 3548, as amended by Pub. L. 102-237, title X, Sec. 1018(b), Dec. 13, 1991, 105 Stat. 1905, established the Commission on State and Private Forests, which was to assess the status of the State and private forest lands of the United States and report its findings and recommendations to the President by Dec. 1, 1992, and which terminated 90 days after submitting its report.

2. So in original. The comma probably should be a period.

3. So in original. Two subsecs. (d) have been enacted.

4. So in original. Two subsecs. (d) have been enacted.

**§1602. [NFMA §4]**

Renewable Resource Program; preparation by Secretary of Agriculture and transmittal to President; purpose and development of program; time of preparation, updating and contents

In order to provide for periodic review of programs for management and administration of the National Forest System, for research, for cooperative State and private Forest Service programs, and for conduct of other Forest Service activities in relation to the findings of the Assessment, the Secretary of Agriculture, utilizing information available to the Forest Service and other agencies within the Department of Agriculture, including data prepared pursuant to section 1010a of title 7, shall prepare and transmit to the President a recommended Renewable Resource Program (hereinafter called the "Program"). The Program transmitted to the President may include alternatives, and shall provide in appropriate detail for protection, management, and development of the National Forest System, including forest development roads and trails; for cooperative Forest Service programs; and for research. The Program shall be developed in accordance with principles set forth in the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531), and the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.]. The Program shall be prepared not later than December 31, 1975, to cover the four-year period beginning October 1, 1976, and at least each of the four fiscal decades next following such period, and shall be updated no later than during the first half of the fiscal year ending September 30, 1980, and the first half of each fifth fiscal year thereafter to cover at least each of the four fiscal decades beginning next after such updating. The Program shall include, but not be limited to:

- (1) an inventory of specific needs and opportunities for both public and private program investments. The inventory shall differentiate between activities which are of a capital nature and those which are of an operational nature;
- (2) specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government;
- (3) a discussion of priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, results, and benefits;
- (4) a detailed study of personnel requirements as needed to implement and monitor existing and ongoing programs; and
- (5) Program recommendations which
  - (A) evaluate objectives for the major Forest Service programs in order that multiple-use and sustained-yield relationships among and within the renewable resources can be determined;
  - (B) explain the opportunities for owners of forests and rangeland to participate in programs to improve and enhance the condition of the land and the renewable resource products therefrom;
  - (C) recognize the fundamental need to protect and, where appropriate, improve the quality of soil, water, and air resources;
  - (D) state national goals that recognize the interrelationships between and interdependence within the renewable resources;
  - (E) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices; and
  - (F) account for the effects of global climate change on forest and rangeland conditions, including potential effects on the geographic ranges of species, and on forest and rangeland products.

(Pub. L. 93-378, §4, formerly §3, Aug. 17, 1974, 88 Stat. 477, renumbered §4 and amended Pub. L. 94-588, §2, 5, Oct. 22, 1976, 90 Stat. 2949, 2951; Pub. L. 101-624, title XXIV, §2408(b), Nov. 28, 1990, 104 Stat. 4061.)

#### References In Text

The Multiple-Use Sustained-Yield Act of 1960, referred to in text, is Pub. L. 86-517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (Sec. 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.

#### Transfer Of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

**§1603. [NFMA §5]**

National Forest System resource inventories; development, maintenance, and updating by Secretary of Agriculture as part of Assessment

As a part of the Assessment, the Secretary of Agriculture shall develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources. This inventory shall be kept current so as to reflect changes in conditions and identify new and emerging resources and values.

(Pub. L. 93-378, §5, formerly §4, Aug. 17, 1974, 88 Stat. 477, renumbered §5, Pub. L. 94-588, §2, Oct. 22, 1976, 90 Stat. 2949.)

**§1604. [NFMA §6]**

National Forest System land and resource management plans

(a) Development, maintenance, and revision by Secretary of Agriculture as part of program; coordination

As a part of the Program provided for by section 1602 of this title, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(b) Criteria

In the development and maintenance of land management plans for use on units of the National Forest System, the Secretary shall use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences.

(c) Incorporation of standards and guidelines by Secretary; time of completion; progress reports; existing management plans

The Secretary shall begin to incorporate the standards and guidelines required by this section in plans for units of the National Forest System as soon as practicable after October 22, 1976, and shall attempt to complete such incorporation for all such units by no later than September 30, 1985. The Secretary shall report to the Congress on the progress of such incorporation in the annual report required by section 1606(c) of this title. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this subchapter, the management of such unit may continue under existing land and resource management plans.

(d) Public participation in management plans; availability of plans; public meetings

The Secretary shall provide for public participation in the development, review, and revision of land management plans including, but not limited to, making the plans or revisions available to the public at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and hold public meetings or comparable processes at locations that foster public participation in the review of such plans or revisions.

(e) Required assurances

In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans

(1) provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528-531], and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness; and

(2) determine forest management systems, harvesting levels, and procedures in the light of all of the uses set forth in subsection (c)(1) of this section, the definition of the terms "multiple use" and "sustained yield."



tained yield as provided in the Multiple-Use Sustained-Yield Act of 1960, and the availability of lands and their suitability for resource management.

(f) Required provisions

Plans developed in accordance with this section shall

(1) form one integrated plan for each unit of the National Forest System, incorporating in one document or one set of documents, available to the public at convenient locations, all of the features required by this section;

(2) be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

(3) be prepared by an interdisciplinary team. Each team shall prepare its plan based on inventories of the applicable resources of the forest;

(4) be amended in any manner whatsoever after final adoption after public notice, and, if such amendment would result in a significant change in such plan, in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section; and

(5) be revised (A) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (B) in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section.

(g) Promulgation of regulations for development and revision of plans; environmental considerations; resource management guidelines; guidelines for land management plans

As soon as practicable, but not later than two years after October 22, 1976, the Secretary shall in accordance with the procedures set forth in section 553 of title 5, promulgate regulations, under the principles of the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528-531] that set out the process for the development and revision of the land management plans, and the guidelines and standards prescribed by this subsection. The regulations shall include, but not be limited to

(1) specifying procedures to insure that land management plans are prepared in accordance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], including, but not limited to, direction on when and for what plans an environmental impact statement required under section 102(2)(C) of that Act [42 U.S.C. 4332(2)(C)] shall be prepared;

(2) specifying guidelines which

(A) require the identification of the suitability of lands for resource management;

(B) provide for obtaining inventory data on the various renewable resources, and soil and water, including pertinent maps, graphic material, and explanatory aids; and

(C) provide for methods to identify special conditions or situations involving hazards to the various resources and their relationship to alternative activities;

(3) specifying guidelines for land management plans developed to achieve the goals of the Program which

(A) insure consideration of the economic and environmental aspects of various systems of renewable resource management, including the related systems of silviculture and protection of forest resources, to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife, and fish;

(B) provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this section, provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan;

(C) insure research on and (based on continuous monitoring and assessment in the field) evaluation of the effects of each management system to the end that it will not produce substantial and permanent impairment of the productivity of the land;

(D) permit increases in harvest levels based on intensified

management practices, such as reforestation, thinning, and tree improvement if (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;

(E) insure that timber will be harvested from National Forest System lands only where

(i) soil, slope, or other watershed conditions will not be irreversibly damaged;

(ii) there is assurance that such lands can be adequately restocked within five years after harvest;

(iii) protection is provided for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from detrimental changes in water temperatures, blockages of water courses, and deposits of sediment, where harvests are likely to seriously and adversely affect water conditions or fish habitat; and

(iv) the harvesting system to be used is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber; and

(F) insure that clearcutting, seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an evenaged stand of timber will be used as a cutting method on National Forest System lands only where

(i) for clearcutting, it is determined to be the optimum method, and for other such cuts it is determined to be appropriate, to meet the objectives and requirements of the relevant land management plan;

(ii) the interdisciplinary review as determined by the Secretary has been completed and the potential environmental, biological, esthetic, engineering, and economic impacts on each advertised sale area have been assessed, as well as the consistency of the sale with the multiple use of the general area;

(iii) cut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain;

(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be cut in one harvest operation, including provision to exceed the established limits after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal: **Provided**, That such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm; and

(v) such cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource.

(h) Scientific committee to aid in promulgation of regulations; termination; revision committees; clerical and technical assistance; compensation of committee members

(1) In carrying out the purposes of subsection (g) of this section, the Secretary of Agriculture shall appoint a committee of scientists who are not officers or employees of the Forest Service. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate upon promulgation of the regulations, but the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations. The views of the committees shall be included in the public information supplied when the regulations are proposed for adoption.

(2) Clerical and technical assistance, as may be necessary to discharge the duties of the committee, shall be provided from the personnel of the Department of Agriculture.

(3) While attending meetings of the committee, the members shall be entitled to receive compensation at a rate of \$100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including

per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

- (i) Consistency of resource plans, permits, contracts, and other instruments with land management plans; revision

Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

- (j) Effective date of land management plans and revisions

Land management plans and revisions shall become effective thirty days after completion of public participation and publication of notification by the Secretary as required under subsection (d) of this section.

- (k) Development of land management plans

In developing land management plans pursuant to this subchapter, the Secretary shall identify lands within the management area which are not suited for timber production, considering physical, economic, and other pertinent factors to the extent feasible, as determined by the Secretary, and shall assure that, except for salvage sales or sales necessitated to protect other multiple-use values, no timber harvesting shall occur on such lands for a period of 10 years. Lands once identified as unsuitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of other multiple-use values. The Secretary shall review his decision to classify these lands as not suited for timber production at least every 10 years and shall return these lands to timber production whenever he determines that conditions have changed so that they have become suitable for timber production.

- (l) Program evaluation; process for estimating long-term costs and benefits; summary of data included in annual report

The Secretary shall

(1) formulate and implement, as soon as practicable, a process for estimating long-terms<sup>5</sup> costs and benefits to support the program evaluation requirements of this subchapter. This process shall include requirements to provide information on a representative sample basis of estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and

(2) include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 1606(c) of this title, including an identification on a representative sample basis of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process; and<sup>6</sup>

- (m) Establishment of standards to ensure culmination of mean annual increment of growth; silvicultural practices; salvage harvesting; exceptions

The Secretary shall establish

(1) standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary): **Provided**, That these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures: **Provided further**, That these standards shall not preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack; and

(2) exceptions to these standards for the harvest of particular spe-

cies of trees in management units after consideration has been given to the multiple uses of the forest including, but not limited to, recreation, wildlife habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section.

(Pub. L. 93-378, §6, formerly, §5, Aug. 17, 1974, 88 Stat. 477, renumbered §6 and amended Pub. L. 94-588, §2, 6, 12(a), Oct. 22, 1976, 90 Stat. 2949, 2952, 2958.)

#### References In Text

The Multiple-Use Sustained-Yield Act of 1960, referred to in subsecs. (e) and (g), is Pub. L. 86-517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

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

#### Transfer Of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

#### Revision Of Forest Plans

Pub. L. 109-54, title IV, Sec. 415, Aug. 2, 2005, 119 Stat. 551, provided that:

“Prior to October 1, 2006, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: **Provided**, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-447, div. E, title III, Sec. 320, Dec. 8, 2004, 118 Stat. 3097.

Pub. L. 108-108, title III, Sec. 320, Nov. 10, 2003, 117 Stat. 1306.

Pub. L. 108-7, div. F, title III, Sec. 320, Feb. 20, 2003, 117 Stat. 274.

Pub. L. 107-63, title III, Sec. 327, Nov. 5, 2001, 115 Stat. 470.

Expedition Completion Of Management Plans Of Forest Service And Bureau Of Land Management; Continuation Of Existing Plans; Judicial Review

Pub. L. 101-121, title III, Sec. 312, Oct. 23, 1989, 103 Stat. 743, provided that: “The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600) [16 U.S.C. 1604(c)], the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: **Provided, however**, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: **Provided further**, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100-446, title III, Sec. 314, Sept. 27, 1988, 102 Stat. 1825.

Pub. L. 100-202, Sec. 101(g) (title III, Sec. 314), Dec. 22, 1987, 101 Stat. 1329-213, 1329-254.

Pub. L. 99-591, Sec. 101(h) (title II), Oct. 30, 1986, 100 Stat. 3341-242, 3341-268, and Pub. L. 99-500, Sec. 101(h) (title II), Oct. 18, 1986, 100 Stat. 1783-242, 1783-268.

## §1605. [NFMA §7]

Protection, use and management of renewable resources on non-Federal lands; utilization of Assessment, surveys and Program by Secretary of Agriculture to assist States, etc.

The Secretary of Agriculture may utilize the Assessment, resource surveys, and Program prepared pursuant to this subchapter to assist States and other organizations in proposing the planning for the protection, use, and management of renewable resources on non-Federal land.

5. So in original. Probably should be “long-term”.

6. So in original. The “; and” probably should be a period.

(Pub. L. 93-378, §7, formerly §6, Aug. 17, 1974, 88 Stat. 478, renumbered §7, Pub. L. 94-588, §2, Oct. 22, 1976, 90 Stat. 2949.)

## §1606. [NFMA §8]

### Budget requests by President for Forest Service activities

(a) Transmittal to Speaker of House and President of Senate of Assessment, Program and Statement of Policy used in framing requests; time for transmittal; implementation by President of programs established under Statement of Policy unless Statement subsequently disapproved by Congress; time for disapproval

On the date Congress first convenes in 1976 and thereafter following each updating of the Assessment and the Program, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, when Congress convenes, the Assessment as set forth in section 1601 of this title and the Program as set forth in section 1602 of this title, together with a detailed Statement of Policy intended to be used in framing budget requests by that Administration for Forest Service activities for the five- or ten-year program period beginning during the term of such Congress for such further action deemed appropriate by the Congress. Following the transmission of such Assessment, Program, and Statement of Policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such Statement of Policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of ninety calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such Assessment, Program, and Statement of Policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the Statement of Policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety-day period. Notwithstanding any other provision of this subchapter, Congress may revise or modify the Statement of Policy transmitted by the President, and the revised or modified Statement of Policy shall be used in framing budget requests.

(b) Contents of requests to show extent of compliance of projected programs and policies with policies approved by Congress; requests not conforming to approved policies; expenditure of appropriations

Commencing with the fiscal budget for the year ending September 30, 1977, requests presented by the President to the Congress governing Forest Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so presented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser programs or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974.

(c) Annual evaluation report to Congress of Program components; time of submission; status of major research programs; application of findings; status, etc., of cooperative forestry assistance programs and activities

For the purpose of providing information that will aid Congress in its oversight responsibilities and improve the accountability of agency expenditures and activities, the Secretary of Agriculture shall prepare an annual report which evaluates the component elements of the Program required to be prepared by section 1602 of this title which shall be furnished to the Congress at the time of submission of the annual fiscal budget commencing with the third fiscal year after August 17, 1974. With regard to the research component of the program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management and in coop-

erative State and private Forest Service programs. With regard to the cooperative forestry assistance part of the Program, the report shall include, but not be limited to, a description of the status, accomplishments, needs, and work backlogs for the programs and activities conducted under the Cooperative Forestry Assistance Act of 1978 [16 U.S.C. 2101 et seq.].

(d) Required contents of annual evaluation report

These annual evaluation reports shall set forth progress in implementing the Program required to be prepared by section 1602 of this title, together with accomplishments of the Program as they relate to the objectives of the Assessment. Objectives should be set forth in qualitative and quantitative terms and accomplishments should be reported accordingly. The report shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. Program benefits shall include, but not be limited to, environmental quality factors such as esthetics, public access, wildlife habitat, recreational and wilderness use, and economic factors such as the excess of cost savings over the value of foregoing benefits and the rate of return on renewable resources.

(e) Additional required contents of annual evaluation report

The reports shall indicate plans for implementing corrective action and recommendations for new legislation where warranted.

(f) Form of annual evaluation report

The reports shall be structured for Congress in concise summary form with necessary detailed data in appendices.

(Pub. L. 93-378, §8, formerly §7, Aug. 17, 1974, 88 Stat. 478, renumbered §8 and amended Pub. L. 94-588, §2, 7, 12(b), Oct. 22, 1976, 90 Stat. 2949, 2956, 2958; Pub. L. 95-313, §15, formerly §12, July 1, 1978, 92 Stat. 374, renumbered §15, Pub. L. 101-624, title XII, §1215(1), Nov. 28, 1990, 104 Stat. 3525.)

#### References In Text

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (b), is Pub. L. 93-344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Cooperative Forestry Assistance Act of 1978, referred to in subsec. (c), is Pub. L. 95-313, July 1, 1978, 92 Stat. 365, which is classified principally to chapter 41 (Sec. 2101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

#### Effective Date Of 1978 Amendment

Amendment by Pub. L. 95-313 effective Oct. 1, 1978, see section 17 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

#### Termination Of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsecs. (a) and (c) of this section relating to transmitting an updated Assessment, Program, and Statement of Policy to the Speaker of the House of Representatives and the President of the Senate and furnishing an annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 45 and 48 of House Document No. 103-7.

#### Statement Of Policy

Pub. L. 96-514, title III, Sec. 310, Dec. 12, 1980, 94 Stat. 2984, provided that: "The Statement of Policy transmitted by the President to the Speaker of the House of Representatives and the President of the Senate on June 19, 1980, as required under section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974 [this section], is revised and modified to read as follows:

#### STATEMENT OF POLICY

##### BASIC PRINCIPLES

It is the policy of the United States

(1) forests and rangeland, in all ownerships, should be managed to maximize their net social and economic contributions to the Nation's well being, in an environmentally sound manner.

(2) the Nation's forested land, except such public land that is determined by law or policy to be maintained in its existing or natural state, should be managed at levels that realize its capabilities to satisfy the Nation's need for food, fiber, energy, water, soil stability, wildlife and fish, recreation, and esthetic values.

(3) the productivity of suitable forested land, in all ownerships, should be maintained and enhanced to minimize the inflationary impacts of wood product prices on the domestic economy and permit a net export of forest products by the year 2030.

(4) in order to achieve this goal, it is recognized that in the major timber growing regions most of the commercial timber lands will have to be brought to and maintained, where possible, at 90 percent of their potential level of growth, consistent with the provisions of the National Forest Management Act of 1976 [see Short Title of 1976 Amendment note set out under section 1600 of this title] on Federal lands, so that all resources are utilized in the combination that will best meet the needs of the American people.

(5) forest and rangeland protection programs should be improved to more ade-



quately protect forest and rangeland resources from fire, erosion, insects, disease, and the introduction or spread of noxious weeds, insects, and animals.

§(6) the Federal agencies carrying out the policies contained in this Statement will cooperate and coordinate their efforts to accomplish the goals contained in this Statement and will consult, coordinate, and cooperate with the planning efforts of the States.

§(7) in carrying out the Assessment and the Program under the Forest and Rangeland Renewable Resources Planning Act of 1974 [this subchapter] and the Appraisal and the Program under the Soil and Water Resources Conservation Act of 1977 [section 2001 et seq. of this title], the Secretary of Agriculture shall assure that resources and economic information and evaluation data will be continually improved so that the best possible information is always available for use by Federal agencies and the public.

#### §RANGE LAND DATA BASE AND ITS IMPROVEMENT

§The data on and understanding of the cover and condition of range lands is less refined than the data on and understanding of commercial forest land. Range lands have significant value in the production of water and protection of watersheds; the production of fish and wildlife food and habitat; recreation; and the production of livestock forage. An adequate data base on the cover and condition of range lands should be developed by the year 1990. Currently, cattle production from these lands is annually estimated at 213 million animal unit months of livestock forage. These lands should be maintained and enhanced, including their water and other resource values, so that they can annually provide 310 million animal units months of forage by the year 2030, along with other benefits.

#### §GENERAL ACCEPTANCE OF HIGH BOUND PROGRAM

§Congress generally accepts the high-bound program described on pages 7 through 18 of the 1980 Report to Congress on the National Renewable Resources prepared by the Secretary of Agriculture. However, Congress finds that the high-bound program may not be sufficient to accomplish the goals contained in this statement, particularly in the area of range and watershed resources, State and private forest cooperation and timber management.

#### §STATE AND PRIVATE LANDS

§States and owners of private forest and rangelands will be encouraged, consistent with their individual objectives, to manage their land in support of this Statement of Policy. The State and private forestry and range programs of the Forest Service will be essential to the furtherance of this Statement of Policy.

#### §FUNDING THE GOALS

§In order to accomplish the policy goals contained in this statement by the year 2030, the Federal Government should adequately fund programs of research (including cooperative research), extension, cooperative forestry assistance and protection, and improved management of the forest and rangelands. The Secretary of Agriculture shall continue his efforts to evaluate the cost-effectiveness of the renewable resource programs.

#### Statement Of Purposes Of Amendment By Cooperative Forestry Assistance Act Of 1978

Section 15, formerly section 12 of Pub. L. 95-313, renumbered Sec. 15, Pub. L. 101-624, title XII, Sec. 1215(1), Nov. 28, 1990, 104 Stat. 3525, provided in part that the amendment of subsec. (c) of this section by Pub. L. 95-313 is to insure that Congress has adequate information to implement its oversight responsibilities and to provide accountability for expenditures and activities under the Cooperative Forestry Assistance Act of 1978. See Short Title note set out under section 2101 of this title for classification of the Cooperative Forestry Assistance Act of 1978 in the Code.

## §1606a.

### Reforestation Trust Fund

#### (a) Establishment; source of funds

There is established in the Treasury of the United States a trust fund, to be known as the Reforestation Trust Fund (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as are transferred to the Trust Fund under subsection (b)(1) of this section and any interest earned on investment of amounts in the Trust Fund under subsection (c)(2) of this section.

#### (b) Transfer of certain tariff receipts to Trust Fund; fiscal year limitation; quarterly transfers; adjustment of estimates

(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after January 1, 1989, under headings 4401 through 4412 and subheadings 4418.50.00, 4418.90.20, 4420.10.00, 4420.90.80, 4421.90.10 through 4421.90.20, and 4421.90.70 of chapter 44, subheadings 6808.00.00 and 6809.11.00 of chapter 68 and subheading 9614.10.00 of chapter 96 of the Harmonized Tariff Schedule of the United States.

(2) The Secretary shall not transfer more than \$30,000,000 to the Trust Fund for any fiscal year.

(3) The amounts required to be transferred to the Trust Fund under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustment

shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

#### (c) Report to Congress; printing as House and Senate document; investments; sale and redemption of obligations; credits for Trust Fund

(1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Agriculture) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and Senate document of the session of the Congress to which the report is made.

(2)(A) It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(B) Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in Trust Fund shall be credited to and form a part of the Trust Fund.

#### (d) Obligations from Trust Fund

The Secretary of Agriculture is on and after December 19, 1985, authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for

(1) reforestation and timber stand improvement as specified in section 1601(d) of this title and other forest stand improvement activities to enhance forest health and reduce hazardous fuel loads of forest stands in the National Forest System; and

(2) properly allocable administrative costs of the Federal Government for the activities specified above.

(Pub. L. 96-451, title III, §303, Oct. 14, 1980, 94 Stat. 1991; Pub. L. 97-424, title IV, §422, Jan. 6, 1983, 96 Stat. 2164; Pub. L. 99-190, §101(d) (title II, §201), Dec. 19, 1985, 99 Stat. 1224, 1245; Pub. L. 100-418, title I, §1214(r), Aug. 23, 1988, 102 Stat. 1160; Pub. L. 105-83, title III, §322, Nov. 14, 1997, 111 Stat. 1596.)

#### References In Text

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(1), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

#### Codification

Section was not enacted as part of the Forest and Rangeland Renewable Resources Planning Act of 1974 which comprises this subchapter.

In subsec. (c)(2)(A), chapter 31 of title 31 substituted for the Second Liberty Bond Act, as amended on authority of Pub. L. 97-258, Sec. 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

#### Effective Date Of 1988 Amendment

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L.

100-418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

#### Termination Of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsec. (c)(1) of this section relating to reporting to Congress each year, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 143 of House Document No. 103-7.

### §1607. [NFMA §9]

National Forest System renewable resources; development and administration by Secretary of Agriculture in accordance with multiple use and sustained yield concepts for products and services; target year for operational posture of resources; budget requests

The Secretary of Agriculture shall take such action as will assure that the development and administration of the renewable resources of the National Forest System are in full accord with the concepts for multiple use and sustained yield of products and services as set forth in the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528-531]. To further these concepts, the Congress hereby sets the year 2000 as the target year when the renewable resources of the National Forest System shall be in an operating posture whereby all backlogs of needed treatment for their restoration shall be reduced to a current basis and the major portion of planned intensive multiple-use sustained-yield management procedures shall be installed and operating on an environmentally-sound basis. The annual budget shall contain requests for funds for an orderly program to eliminate such backlogs: **Provided**, That when the Secretary finds that (1) the backlog of areas that will benefit by such treatment has been eliminated, (2) the cost of treating the remainder of such area exceeds the economic and environmental benefits to be secured from their treatment, or (3) the total supplies of the renewable resources of the United States are adequate to meet the future needs of the American people, the budget request for these elements of restoration may be adjusted accordingly.

(Pub. L. 93-378, §9, formerly §8, Aug. 17, 1974, 88 Stat. 479, renumbered §9, Pub. L. 94-588, §2, Oct. 22, 1976, 90 Stat. 2949.)

#### References In Text

The Multiple-Use Sustained-Yield Act of 1960, referred to in text, is Pub. L. 86-517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

#### Transfer Of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

### §1608. [NFMA §10]

National Forest Transportation System

(a) Congressional declaration of policy; time for development; method of financing; financing of forest development roads

The Congress declares that the installation of a proper system of transportation to service the National Forest System, as is provided for in sections 532 to 538 of this title, shall be carried forward in time to meet anticipated needs on an economical and environmentally sound basis, and the method chosen for financing the construction and maintenance of the transportation system should be such as to enhance local, regional, and national benefits: **Provided**, That limitations on the level of obligations for construction of forest roads by timber purchasers shall be established in annual appropriation Acts.

(b) Construction of temporary roadways in connection with timber contracts, and other permits or leases

Unless the necessity for a permanent road is set forth in the forest development road system plan, any road constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later deter-

mined that the road is needed for use as a part of the National Forest Transportation System.

(c) Standards of roadway construction

Roads constructed on National Forest System lands shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources.

(Pub. L. 93-378, §10, formerly §9, Aug. 17, 1974, 88 Stat. 479, renumbered §10 and amended Pub. L. 94-588, §2, 8, Oct. 22, 1976, 90 Stat. 2949, 2956; Pub. L. 97-100, title II, §201, Dec. 23, 1981, 95 Stat. 1405.)

#### Transfer Of Function

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

#### County Payment Mitigation<sup>o</sup> Transportation System Moratorium

Pub. L. 105-174, §3006, May 1, 1998, 112 Stat. 85 provided that:

̈(a)(1) This section provides compensation for loss of revenues that would have been **Provided** to counties if no road moratorium, as described in subsection (a)(2), were implemented or no substitute sales offered as described in subsection (b)(1). This section does not endorse or prohibit the road building moratorium nor does it affect the applicability of existing law to any moratorium.

̈(2) The Chief of the Forest Service, Department of Agriculture, in his sole discretion, may offer any timber sales that were scheduled October 1, 1997, or thereafter, to be offered in fiscal year 1998 or fiscal year 1999 even if such sales would have been delayed or halted as a result of any moratorium (resulting from the Federal Register proposal of January 28, 1998, pages 4351-4354) on construction of roads in roadless areas within the National Forest System adopted as policy or by regulation that would otherwise be applicable to such sales.

̈(3) Any sales offered pursuant to subsection (a)(2) shall<sup>o</sup>

̈(A) comply with all applicable laws and regulations and be consistent with applicable land and resource management plans, except any regulations or plan amendments which establish or implement the moratorium referred to in subsection (a)(2); and

̈(B) be subject to administrative appeals pursuant to part 215 of title 36 of the Code of Federal Regulations and to judicial review.

̈(1) For any previously scheduled sales that are not offered pursuant to subsection (a)(2), the Chief may, to the extent practicable, offer substitute sales within the same State in fiscal year 1998 or fiscal year 1999. Such substitute sales shall be subject to the requirements of subsection (a)(3).

̈(2)(A) The Chief shall pay as soon as practicable after fiscal year 1998 and fiscal year 1999 to any State in which sales previously scheduled to be offered that are referred to in, but not offered pursuant to, subsection (a)(2) would have occurred, 25 percent of any anticipated receipts from such sales that<sup>o</sup>

̈(i) were scheduled from fiscal year 1998 or fiscal year 1999 sales in the absence of any moratorium referred to in subsection (a)(2); and

̈(ii) are not offset by revenues received in such fiscal years from substitute projects authorized pursuant to subsection (b)(1).

̈(B) After reporting the amount of funds required to make any payments required by subsection (b)(2)(A), and the source from which such funds are to be derived, to the Committees on Appropriations of the House of Representatives and the Senate, the Chief shall make any payments required by subsection (b)(2)(A) from any funds available to the Forest Service in fiscal year 1998 or fiscal year 1999, subject to approval of the Committees on Appropriations of the House of Representatives and the Senate, that are not specifically earmarked for another purpose by the applicable appropriation Act or a committee or conference report thereon.

̈(C) Any State which receives payments required by subsection (b)(2)(A) shall expend such funds only in the manner, and for the purposes, prescribed in section 500 of title 16, United States Code.

̈(c)(1) During the term of the moratorium referred to in subsection (a)(2), the Chief shall prepare and submit to the Committees on Appropriations of the House of Representatives and the Senate a report on each of the following<sup>o</sup>

̈(A) a study of whether standards and guidelines in existing land and resource management plans compel or encourage entry into roadless areas within the National Forest System for the purpose of constructing roads or undertaking any other ground-disturbing activities;

̈(B) an inventory of all roads within the National Forest System and the uses which they serve, in a format that will inform and facilitate the development of a long-term Forest Service transportation policy; and

̈(C) a comprehensive and detailed analysis of the economic and social effects of the moratorium referred to in subsection (a)(2) on county, State, and regional levels.<sup>o</sup>

### §1609. [NFMA §11]

National Forest System

(a) Congressional declaration of constituent elements and purposes; lands etc., included within; return of lands to public domain

Congress declares that the National Forest System consists of units



of federally owned forest, range, and related lands throughout the United States and its territories, united into a nationally significant system dedicated to the long-term benefit for present and future generations, and that it is the purpose of this section to include all such areas into one integral system. The National Forest System shall include all national forest lands reserved or withdrawn from the public domain of the United States, all national forest lands acquired through purchase, exchange, donation, or other means, the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1010 et seq.], and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system. Notwithstanding the provisions of section 473 of this title, no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to section 471 of this title, or any act supplementary to and amendatory thereof, shall be returned to the public domain except by an act of Congress.

(b) Location of Forest Service offices

The on-the-ground field offices, field supervisory offices, and regional offices of the Forest Service shall be so situated as to provide the optimum level of convenient, useful services to the public, giving priority to the maintenance and location of facilities in rural areas and towns near the national forest and Forest Service program locations in accordance with the standards in section 3122(b) of title 42.

(Pub. L. 93-378, §11, formerly §10, Aug. 17, 1974, 88 Stat. 480, renumbered §11 and amended Pub. L. 94-588, §2, 9, Oct. 22, 1976, 90 Stat. 2949, 2957.)

References In Text

The Bankhead-Jones Farm Tenant Act, referred to in subsec. (a), is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of the Bankhead Jones Farm Tenant Act is classified generally to subchapter III (Sec. 1010 et seq.) of chapter 33 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1000 of Title 7 and Tables.

Section 471 of this title, referred to in subsec. (a), was repealed by Pub. L. 94-579, title VII, Sec. 704(a), Oct. 21, 1976, 90 Stat. 2792.)

Transfer Of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

Land Conveyances Involving Joliet Army Ammunition Plant, Illinois

Pub. L. 104-106, div. B, title XXIX, Feb. 10, 1996, 110 Stat. 594, as amended by Pub. L. 106-65, div. B, title XXVIII, Sec. 2842, Oct. 5, 1999, 113 Stat. 863, provided that title XXIX could be cited as the "Illinois Land Conservation Act of 1995" and provided for conversion of Joliet Army Ammunition Plant to Midewin National Tallgrass Prairie, Illinois, to be managed by the Secretary of Agriculture as part of National Forest System, and for conveyance of certain real property at the Arsenal for a national cemetery, a Will County, Illinois, landfill, and industrial parks to replace all or a part of lost economic activity, with provisions prohibiting construction of title XXIX to restrict or lessen degree of cleanup required to be carried out under environmental laws, and provisions authorizing retention of real property used for environmental cleanup by Secretary of the Army until transfer occurs.

## §1610. [NFMA §12]

Implementation of provisions by Secretary of Agriculture; utilization of information and data of other organizations; avoidance of duplication of planning, etc.; ~~renewable resources~~ defined

In carrying out this subchapter, the Secretary of Agriculture shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The term "renewable resources" shall be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on August 17, 1974 and on the date of enactment of any legislation amendatory or supplementary thereto.

(Pub. L. 93-378, §12, formerly §11, Aug. 17, 1974, 88 Stat. 480, renumbered §12 and amended Pub. L. 94-588, §2, 10, Oct. 22, 1976, 90 Stat. 2949, 2957.)

Transfer Of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

## §1611. [NFMA §13]

### Timber

(a) Limitations on removal; variations in allowable sale quantity; public participation

The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis: **Provided**, That, in order to meet overall multiple-use objectives, the Secretary may establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established: **Provided further**, That any such planned departure must be consistent with the multiple-use management objectives of the land management plan. Plans for variations in the allowable sale quantity must be made with public participation as required by section 1604(d) of this title. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section in the case of any national forest so long as the average sale quantities of timber from such national forest over the decade covered by the plan do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield.

(b) Salvage harvesting

Nothing in subsection (a) of this section shall prohibit the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. The Secretary may either substitute such timber for timber that would otherwise be sold under the plan or, if not feasible, sell such timber over and above the plan volume.

(Pub. L. 93-378, §13, as added Pub. L. 94-588, §11, Oct. 22, 1976, 90 Stat. 2957.)

Transfer Of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

Timber Sales Pipeline Restoration Fund

Pub. L. 104-134, title I, Sec. 101(c) [title III, Sec. 327], Apr. 26, 1996, 110 Stat. 1321-156, 1321-206; renumbered title I, Pub. L. 104-140, Sec. 1(a), May 2, 1996, 110 Stat. 1327, provided that:

“(a) The Secretary of Agriculture and the Secretary of the Interior shall each establish a Timber Sales Pipeline Restoration Fund (hereinafter “Agriculture Fund” and “Interior Fund” or “Funds”). Any revenues received from sales released under section 2001(k) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act [probably means section 2001(k) of Pub. L. 104-19, set out below], minus the funds necessary to make payments to States or local governments under other law concerning the distribution of revenues derived from the affected lands, which are in excess of \$37,500,000 (hereinafter “excess revenues”) shall be deposited into the Funds. The distribution of excess revenues between the Agriculture Fund and Interior Fund shall be calculated by multiplying the total of excess revenues times a fraction with a denominator of the total revenues received from all sales released under such section 2001(k) and numerators of the total revenues received from such sales on lands within the National Forest System and the total revenues received from such sales on lands administered by the Bureau of Land Management, respectively: **Provided**, That revenues or portions thereof from sales released under such section 2001(k), minus the amounts necessary for State and local government payments and other necessary deposits, may be deposited into the Funds immediately upon receipt thereof and subsequently redistributed between the Funds or paid into the United States Treasury as miscellaneous receipts as may be required when the calculation of excess revenues is made.

“(b)(1) From the funds deposited into the Agriculture Fund and into the Interior Fund pursuant to subsection (a)

“(A) seventy-five percent shall be available, without fiscal year limitation or further appropriation, for preparation of timber sales, other than salvage sales as defined in section 2001(a)(3) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act [probably means section 2001(a)(3) of Pub. L. 104-19, set out below], which

7. See References in Text note below.

ō(i) are situated on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively; and

ō(ii) are in addition to timber sales for which funds are otherwise available in this Act or other appropriations Acts; and

ō(B) twenty-five percent shall be available, without fiscal year limitation or further appropriation, to expend on the backlog of recreation projects on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively.

ō(2) Expenditures under this subsection for preparation of timber sales may include expenditures for Forest Service activities within the forest land management budget line item and associated timber roads, and Bureau of Land Management activities within the Oregon and California grant lands account and the forestry management area account, as determined by the Secretary concerned.

ō(c) Revenues received from any timber sale prepared under subsection (b) or under this subsection, minus the amounts necessary for State and local government payments and other necessary deposits, shall be deposited into the Fund from which funds were expended on such sale. Such deposited revenues shall be available for preparation of additional timber sales and completion of additional recreation projects in accordance with the requirements set forth in subsection (b).

ō(d) The Secretary concerned shall terminate all payments into the Agriculture Fund or the Interior Fund, and pay any unobligated funds in the affected Fund into the United States Treasury as miscellaneous receipts, whenever the Secretary concerned makes a finding, published in the Federal Register, that sales sufficient to achieve the total allowable sales quantity of the National Forest System for the Forest Service or the allowable sales level for the Oregon and California grant lands for the Bureau of Land Management, respectively, have been prepared.

ō(e) Any timber sales prepared and recreation projects completed under this section shall comply with all applicable environmental and natural resource laws and regulations.

ō(f) The Secretary concerned shall report annually to the Committees on Appropriations of the United States Senate and the House of Representatives on expenditures made from the Fund for timber sales and recreation projects, revenues received into the Fund from timber sales, and timber sale preparation and recreation project work undertaken during the previous year and projected for the next year under the Fund. Such information shall be provided for each Forest Service region and Bureau of Land Management State office.

ō(g) The authority of this section shall terminate upon the termination of both Funds in accordance with the provisions of subsection (d)."

#### Emergency Salvage Timber Sale Program

Pub. L. 104-19, title II, Sec. 2001, July 27, 1995, 109 Stat. 240, as amended by Pub. L. 104-134, title I, Sec. 101(c) [title III, Sec. 316], Apr. 26, 1996, 110 Stat. 1321-156, 1321-202; renumbered title I, Pub. L. 104-140, Sec. 1(a), May 2, 1996, 110 Stat. 1327, provided for salvage timber sales from certain Federal lands by the Secretary of Agriculture and the Secretary of the Interior from July 27, 1995 to Dec. 31, 1996.

## §1612. [NFMA §14]

### Public participation

#### (a) Adequate notice and opportunity to comment

In exercising his authorities under this subchapter and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

#### (b) Advisory boards

In providing for public participation in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof.

(Pub. L. 93-378, §14, as added Pub. L. 94-588, §11, Oct. 22, 1976, 90 Stat. 2958.)

#### References In Text

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### Transfer Of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

#### Forest Service Decisionmaking And Appeals Reform

Pub. L. 102-381, §322, Oct. 5, 1992, 106 Stat. 1419, 1420, provided that:

ō(a) In general.ō In accordance with this section, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.) and shall modify the procedure for appeals of decisions concerning such projects.

#### ō(b) Notice and comment.ō

ō(d) Notice.ō Prior to proposing an action referred to in subsection (a), the Secretary shall give notice of the proposed action, and the availability of the action for public comment byō

ō(A) promptly mailing notice about the proposed action to any person who has requested it in writing, and to persons who are known to have participated in the decisionmaking process; and,

ō(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of action in the Federal Register; or

ō(ii) in the case of any other action referred to in subsection (a), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.

ō(2) Comment.ō The Secretary shall accept comments on the proposed action within 30 days after publication of the notice in accordance with paragraph (1).  
ō(c) Right to appeal.ō Not later than 45 days after the date of issuance of a decision of the Forest Service concerning actions referred to in subsection (a), a person who was involved in the public comment process under subsection (b) through submission of written or oral comments or by otherwise notifying the Forest Service of their interest in the proposed action may file an appeal.

#### ō(d) Disposition of an appeal.ō

##### ō(d) Informal disposition.ō

ō(A) In general.ō Subject to subparagraph (B), a designated employee of the Forest Service shall offer to meet with each individual who files an appeal in accordance with subsection (c) and attempt to dispose of the appeal.

ō(B) Time and location of the meeting.ō Each meeting in accordance with subparagraph (A) shall take placeō

ō(i) not later than 15 days after the closing date for filing an appeal; and

ō(ii) at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.

ō(3) Formal review.ō If the appeal is not disposed of in accordance with paragraph (1), an appeals review officer designated by the Chief of the Forest Service shall review the appeal and recommend in writing, to the official responsible for deciding the appeal, the appropriate disposition of the appeal. The official responsible for deciding the appeal shall then decide the appeal. The appeals review officer shall be a line officer at least at the level of the agency official who made the initial decision on the project or activity that is under appeal, who has not participated in the initial decision and will not be responsible for implementation of the initial decision after the appeal is decided.

ō(3) Time for disposition.ō Disposition of appeals under this subsection shall be completed not later than 30 days after the closing date for filing of an appeal, provided that the Forest Service may extend the closing date by an additional 15 days.

ō(4) If the Secretary fails to decide the appeal within the 45-day period, the decision on which the appeal is based shall be deemed to be a final agency action for the purpose of chapter 7 of title 5, United States Code.

ō(e) Stay.ō Unless the Chief of the Forest Service determines that an emergency situation exists with respect to a decision of the Forest Service, implementation of the decision shall be stayed during the period beginning on the date of the decisionō

ō(1) for 45 days, if an appeal is not filed, or

ō(2) for an additional 15 days after the date of the disposition of an appeal under this section, if the agency action is deemed final under subsection (d)(4).ō

## §1613. [NFMA §15]

### Promulgation of regulations

The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this subchapter.

(Pub. L. 93-378, §15, as added Pub. L. 94-588, §11, Oct. 22, 1976, 90 Stat. 2958.)

#### Transfer Of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter 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 note set out under section 1601 of this title.

## §1614. [NFMA §16]

### Severability

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 93-378, §16, as added Pub. L. 94-588, §11, Oct. 22, 1976, 90 Stat. 2958.)