

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

As a part of the Assessment, the Secretary 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; amended Pub. L. 115-141, div. O, title II, §208(b)(2), Mar. 23, 2018, 132 Stat. 1066.)

## AMENDMENTS

2018—Pub. L. 115-141 substituted “Secretary” for “Secretary of Agriculture”.

**§ 1604. National Forest System land and resource management plans**

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

As a part of the Program provided for by section 1602 of this title, the Secretary 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 and consultation**

**(1) In general**

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.

**(2) No additional consultation required after approval of land management plans**

**(A) In general**

Except as provided in subparagraph (B), notwithstanding any other provision of law, the Secretary shall not be required to engage in consultation under this section or any other provision of law (including section 7 of Public Law 93-205 (16 U.S.C. 1536) and section 402.16 of title 50, Code of Federal Regulations (or a successor regulation)) with respect to—

(i) the listing of a species as threatened or endangered, or a designation of critical habitat pursuant to Public Law 93-205 (16 U.S.C. 1531 et seq.), if a land management plan has been adopted by the Secretary as of the date of listing or designation; and

(ii) any provision of a land management plan adopted as described in clause (i).

**(B) Exception**

Subparagraph (A) shall not apply if—

(i) 15 years have passed since the date on which the Secretary adopted the land management plan described in clause (i) of that subparagraph; and

(ii) 5 years have passed since the date of enactment of this section<sup>1</sup> or the date of the listing of a species as threatened or endangered for a species known to occur on the unit or the designation of critical habitat within the unit as described in clause (i) of that subparagraph, whichever is later.

**(C) Effect of paragraph**

Nothing in this paragraph affects any applicable requirement of the Secretary to consult with the head of any other Federal department or agency—

(i) regarding any project carried out, or proposed to be carried out, to implement a land management plan pursuant to Public Law 93-205 (16 U.S.C. 1531 et seq.), including any requirement to consult regarding the consideration of cumulative impacts of completed, ongoing, and planned projects; or

(ii) with respect to—

(I) the development of a modification to a land management plan; or

(II) an amendment or revision to a land management plan in accordance with paragraph (4) or (5) of subsection (f).

<sup>1</sup> See References in Text note below.

**(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), the definition of the terms “multiple use” and “sustained 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 sedi-

ment, 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 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-term<sup>2</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

<sup>2</sup>So in original. Probably should be "long-term".

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>3</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 species 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; Pub. L. 115-141, div. O, title II, § 208(a), (b)(2), Mar. 23, 2018, 132 Stat. 1065, 1066.)

REFERENCES IN TEXT

Public Law 93-205, referred to subsec. (d)(2)(A)(i), (C)(i), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, known as the Endangered Species Act of 1973, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The date of enactment of this section, referred to in subsec. (d)(2)(B)(ii), probably means the date of enactment of Pub. L. 115-141, which added subsec. (d)(2) and was approved Mar. 23, 2018.

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 (§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.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-141, §208(b)(2), substituted “Secretary” for “Secretary of Agriculture”.

Subsec. (d). Pub. L. 115-141, §208(a), inserted subsec. heading, designated existing provisions as par. (1) and inserted par. heading, and added par. (2).

Subsec. (h)(1). Pub. L. 115-141, §208(b)(2), substituted “Secretary shall appoint” for “Secretary of Agriculture shall appoint”.

1976—Subsec. (a). Pub. L. 94-588, §12(a), made technical amendment to reference in original Act which appears in text as reference to section 1602 of this title.

Subsecs. (c) to (m). Pub. L. 94-588, §6, added subsecs. (c) to (m).

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. 115-141, div. G, title IV, §407, Mar. 23, 2018, 132 Stat. 688, provided that: “The Secretary of Agriculture shall not be considered to be in violation of section 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. 115-31, div. G, title IV, §407, May 5, 2017, 131 Stat. 495.

Pub. L. 114-113, div. G, title IV, §407, Dec. 18, 2015, 129 Stat. 2575.

Pub. L. 113-235, div. F, title IV, §408, Dec. 16, 2014, 128 Stat. 2445.

Pub. L. 113-76, div. G, title IV, §407, Jan. 17, 2014, 128 Stat. 338.

Pub. L. 112-74, div. E, title IV, §409, Dec. 23, 2011, 125 Stat. 1039.

Pub. L. 111-88, div. A, title IV, §410, Oct. 30, 2009, 123 Stat. 2957.

Pub. L. 111-8, div. E, title IV, §410, Mar. 11, 2009, 123 Stat. 746.

Pub. L. 110-161, div. F, title IV, §410, Dec. 26, 2007, 121 Stat. 2146.

Pub. L. 109-54, title IV, §415, Aug. 2, 2005, 119 Stat. 551.

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

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

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

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

EXPEDITIOUS COMPLETION OF MANAGEMENT PLANS OF FOREST SERVICE AND BUREAU OF LAND MANAGEMENT; CONTINUATION OF EXISTING PLANS; JUDICIAL REVIEW

Pub. L. 101-121, title III, §312, Oct. 23, 1989, 103 Stat. 743, provided that: “The Forest Service and Bureau of

<sup>3</sup> So in original. The “; and” probably should be a period.

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, §314, Sept. 27, 1988, 102 Stat. 1825.

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

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

**§ 1605. Protection, use and management of renewable resources on non-Federal lands; utilization of Assessment, surveys and Program by Secretary to assist States, etc.**

The Secretary 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.

(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; amended Pub. L. 115-141, div. O, title II, §208(b)(2), Mar. 23, 2018, 132 Stat. 1066.)

AMENDMENTS

2018—Pub. L. 115-141 substituted “Secretary” for “Secretary of Agriculture”.

**§ 1606. 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 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