

cluding but not limited to water quality and water quantity) or other fishery values; and

(B) maintaining present and continued productivity of the habitat of anadromous fish and other foodfish which might be affected by the mining and other activities proposed to be conducted in accordance with such plan or such stages of the plan of operations;

(4)(A) the Secretary shall ensure, to the maximum extent feasible, that the cumulative effects of activities carried out under the operating plan will not interfere with the ability to collect baseline information needed by the Secretary to evaluate the effects of various stages of the operating plan on the fishery habitat and productivity of such habitats;

(B) the Secretary shall review such plan and mining activities on at least an annual basis. With respect to any mining or associated activities, the Secretary, if he determines upon notice and hearing, that the activities are harmful to the continued productivity of anadromous fish, or other foodfish populations or fishery habitat, shall require a modification of the plan to eliminate or mitigate, if necessary, the harmful effects of such activities; and

(5) upon a finding by the Secretary that a mining activity conducted as a part of a mining operation exists which constitutes a threat of irreparable harm to anadromous fish, or other foodfish populations or their habitat, and that immediate correction is required to prevent such harm, he may require such activity to be suspended for not to exceed seven days, provided the activity may be resumed at the end of said seven-day period unless otherwise required by a United States district court.

(c) Authority of State of Alaska to manage fish and wildlife

Nothing in this section shall enlarge or diminish the responsibility and authority of the State of Alaska to manage fish and wildlife or to exercise its other responsibilities under applicable law.

(d) Authority of Secretary of Agriculture to manage national forests

Except as specifically provided in subsection (b)(5), nothing in this section shall enlarge or diminish the responsibilities and authorities of the Secretary of Agriculture to manage the national forests.

(Pub. L. 96-487, title V, § 505, Dec. 2, 1980, 94 Stat. 2405.)

§ 539c. Cooperative fisheries planning; report to Congress

(a) The Secretary of Agriculture is directed to implement a cooperative planning process for the enhancement of fisheries resources through fish hatchery and aquaculture facilities and activities in the Tongass National Forest. Participation in this process shall include but not be limited to the State of Alaska and appropriate nonprofit aquaculture corporations. The Secretary may contract with private, nonprofit associations for services in such planning.

(b) Each subsequent revision of National Forest management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.] and the National Forest Management Act of 1976 shall contain a report on the status of the planning process undertaken under this paragraph, including, but not limited to, a description of current hatchery and aquaculture projects, an analysis of the success of these projects, and a prioritized list of projects anticipated for the duration of the management plan. The report shall be submitted by the Secretary to the Congress with recommendations for any legislative action which the Secretary may deem necessary to implement the proposed hatchery and aquaculture projects.

(Pub. L. 96-487, title V, § 507, Dec. 2, 1980, 94 Stat. 2412.)

Editorial Notes

REFERENCES IN TEXT

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

The National Forest Management Act of 1976, referred to in subsec. (b), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

§ 539d. National forest timber utilization program

(a) Tongass National Forest timber supply; satisfaction of certain market demands

Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.

(b) Insured and guaranteed loan program for purchasers of national forests materials in Alaska; authorization of appropriations

(1) The Secretary is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms

and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

(2) To carry out the special loan program established by this section, there are hereby authorized beginning after the fiscal year 1980 to be appropriated \$5,000,000 from National Forest Fund receipts, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

(c) Study on increase of timber yields on national forest lands in Alaska; transmittal to Congress

Within three years after December 2, 1980, the Secretary shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

(d) Identification of lands not suited for timber production; consideration of economic factors unnecessary

All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.

(e) Protection of riparian habitat; maintenance of buffer zones in Tongass National Forest; relocation of prior independent sale or released volume

In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than one hundred feet in width on each side of all Class I streams in the Tongass National Forest, and on those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation handbook¹ (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the

terms "Class I streams" and "Class II streams" mean the same as they do in the Region 10 Aquatic Habitat Management Handbook (FSH 2609.24), June 1986.

(f) Timber supply from Tongass National Forest for purchasers qualifying as "small business concerns"

Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Management Act of 1976 (Public Law 94-588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall, in consultation with the Administrator of the Small Business Administration and to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest to those purchasers qualifying as "small business concerns" under the Small Business Act as amended (15 U.S.C. 631 et seq.).

(Pub. L. 96-487, title VII, §705, Dec. 2, 1980, 94 Stat. 2420; Pub. L. 101-626, title I, §§101-103(a), 105(b), Nov. 28, 1990, 104 Stat. 4426, 4427.)

Editorial Notes

REFERENCES IN TEXT

The National Forest Management Act of 1976, referred to in subsecs. (a) and (f), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. Section 6(k) of the Act (16 U.S.C. 1604(k)), probably means section 6(k) of the Forest and Rangeland Renewable Resources Planning Act of 1974, which is classified to section 1604(k) of this title, and which was added by section 6 of the Act. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

This Act, referred to in subsec. (f), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

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

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-626, §101, added subsec. (a) and struck out former subsec. (a) which read as follows: "The Congress authorizes and directs that the Secretary of the Treasury shall make available to the Secretary of Agriculture the sum of at least \$40,000,000 annually or as much as the Secretary of Agriculture finds is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of four billion five hundred million foot board measure per decade. Such sums will be drawn from receipts from oil, gas, timber, coal, and other natural resources collected by the Secretary of Agriculture and the Secretary of the Interior notwithstanding any other law providing for the distribution of such receipts: *Provided*, That such funds shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and such funds shall not be subject to annual appropriation."

¹ So in original. Probably should be capitalized.

Subsec. (d). Pub. L. 101-626, §102, added subsec. (d) and struck out former subsec. (d) which read as follows: "The provisions of this section shall apply notwithstanding the provisions of section 6(k) of the National Forest Management Act of 1976 (90 Stat. 2949)."

Subsec. (e). Pub. L. 101-626, §103(a), added subsec. (e).
Subsec. (f). Pub. L. 101-626, §105(b), added subsec. (f).

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-626, §1(a), Nov. 28, 1990, 104 Stat. 4426, provided that: "This Act [amending this section and sections 472a and 539e of this title, enacting provisions listed in a table of Wilderness Areas set out under section 1132 of this title, and enacting provisions set out as notes under this section and section 539e of this title] may be cited as the "Tongass Timber Reform Act".

STUDY CONTAINING RECOMMENDATIONS ON NEED TO STANDARDIZE RIPARIAN MANAGEMENT PRACTICES IN TONGASS NATIONAL FOREST

Pub. L. 101-626, title I, §103(b), Nov. 28, 1990, 104 Stat. 4427, directed the Secretary of Agriculture, no later than one year after Nov. 28, 1990, to prepare and transmit to Congress a study containing recommendations on the need, if any, to standardize riparian management practices for Federal, State, and private lands within the Tongass National Forest.

APPLICATION OF AMENDMENTS BY PUB. L. 101-626 TO CERTAIN LONG-TERM TIMBER SALE CONTRACTS

Pub. L. 101-626, title I, §105(c), Nov. 28, 1990, 104 Stat. 4428, provided that: "The provisions of subsections (a) and (b) of this section [amending this section and section 472a of this title] shall not apply to the purchase of timber within the Tongass National Forest pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively."

APPLICABILITY OF SUBSECTION (a) FROM OCTOBER 1, 1987 UNTIL SEPTEMBER 30, 1989

Pub. L. 100-203, title V, §5202, Dec. 22, 1987, 101 Stat. 1330-267, provided that from the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of subsec. (a) of this section was not effective, and that in lieu thereof, the following provision was to apply: "There is hereby authorized to be appropriated the sum of at least \$40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4,500,000,000 foot board measure per decade."

§ 539e. Reports

(a) Timber supply and demand in southeastern Alaska

The Secretary is directed to monitor timber supply and demand in southeastern Alaska and report annually thereon to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(b) Status of Tongass National Forest in southeastern Alaska; contents

Within five years from December 2, 1980, and every two years thereafter the Secretary shall review and report to Congress on the status of the Tongass National Forest in southeastern Alaska. This report shall include, but not be limited to, (1) the timber harvest levels in the

forest since December 2, 1980; (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska; (3) measures instituted by the Forest Service to protect fish and wildlife in the forest; (4) the status of the small business set aside program in the Tongass Forest,¹ and (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats.

(c) Cooperation and consultation

The study required by this section shall be conducted in cooperation and consultation with the State, affected Native Corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, the southeast Alaska commercial fishing industry, and the Alaska Land Use Council.²

(Pub. L. 96-487, title VII, §706, Dec. 2, 1980, 94 Stat. 2420; Pub. L. 101-626, title I, §104, Nov. 28, 1990, 104 Stat. 4427; Pub. L. 103-437, §6(d)(31), Nov. 2, 1994, 108 Stat. 4584.)

Editorial Notes

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-437 substituted "Natural Resources" for "Interior and Insular Affairs" after "Committee on".

1990—Subsec. (a). Pub. L. 101-626, §104(a), struck out at end "If, at any time after December 2, 1980, the Secretary finds that the available land base in the Tongass National Forest is inadequate to maintain the timber supply from the Tongass National Forest to dependent industry at the rate of four billion five hundred million foot board measure per decade, he shall include such information in his report."

Subsec. (b). Pub. L. 101-626, §104(a), added cl. (5).

Subsec. (c). Pub. L. 101-626, §104(b), substituted "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council." for "and the Alaska Land Use Council".

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to reporting to Congress, every two years, on the status of the Tongass National Forest, 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 48 of House Document No. 103-7.

STUDY REGARDING FEASIBILITY OF ACQUIRING PREVIOUSLY HARVESTED PRIVATE LANDS IN TONGASS NATIONAL FOREST

Section 501 of Pub. L. 101-626 directed the Secretary, no later than one year after Nov. 28, 1990, to complete a study regarding feasibility of acquiring private lands located within boundary of the Tongass National Forest, which have been significantly harvested and to transmit the study to specific committees of Congress.

§ 539f. Nonprofit organization user of national forest lands

(a) Permits for organization camps; waiver of charges; performance of services; loss of entitlement

Notwithstanding any other provision of law, the Secretary of Agriculture is directed to waive

¹ So in original. The comma probably should be a semicolon.

² So in original.