

continuously productive state while meeting the objectives of the tribe and which shall include—

(A) standards setting forth the funding and staffing requirements necessary to carry out each management plan, with a report of current forestry funding and staffing levels; and

(B) standards providing quantitative criteria to evaluate performance against the objectives set forth in the plan;

(6) “forest product” means—

(A) timber,

(B) a timber product, including lumber, lath, crating, ties, bolts, logs, pulpwood, fuelwood, posts, poles and split products,

(C) bark,

(D) Christmas trees, stays, branches, firewood, berries, mosses, pinyon nuts, roots, acorns, syrups, wild rice, and herbs,

(E) other marketable material, and

(F) gravel which is extracted from, and utilized on, Indian forest lands;

(7) “forest resources” means all the benefits derived from Indian forest lands, including forest products, soil productivity, water, fisheries, wildlife, recreation, and aesthetic or other traditional values of Indian forest lands;

(8) “forest trespass” means the act of illegally removing forest products from, or illegally damaging forest products on, forest lands;

(9) “Indian” means a member of an Indian tribe;

(10) “Indian land” means land title to which is held by—

(A) the United States in trust for an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally-recognized Indian tribe, or an Indian tribe, or

(B) an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally recognized tribe, or an Indian tribe subject to a restriction by the United States against alienation;

(11) “Indian tribe” or “tribe” means any Indian tribe, band, nation, Pueblo or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and shall mean, where appropriate, the recognized tribal government of such tribe’s reservation;

(12) “reservation” includes Indian reservations established pursuant to treaties, Acts of Congress or Executive orders, public domain Indian allotments, and former Indian reservations in Oklahoma;

(13) “Secretary” means the Secretary of the Interior;

(14) “sustained yield” means the yield of forest products that a forest can produce continuously at a given intensity of management; and

(15) “tribal integrated resource management plan” means a document, approved by an Indian tribe and the Secretary, which provides coordination for the comprehensive management of such tribe’s natural resources.

(Pub. L. 101-630, title III, §304, Nov. 28, 1990, 104 Stat. 4533.)

§ 3104. Management of Indian forest land

(a) Management activities

The Secretary shall undertake forest land management activities on Indian forest land, either directly or through contracts, cooperative agreements, or grants under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(b) Management objectives

Indian forest land management activities undertaken by the Secretary shall be designed to achieve the following objectives—

(1) the development, maintenance, and enhancement of Indian forest land in a perpetually productive state in accordance with the principles of sustained yield and with the standards and objectives set forth in forest management plans by providing effective management and protection through the application of sound silvicultural and economic principles to—

(A) the harvesting of forest products,

(B) forestation,

(C) timber stand improvement, and

(D) other forestry practices;

(2) the regulation of Indian forest lands through the development and implementation, with the full and active consultation and participation of the appropriate Indian tribe, of forest management plans which are supported by written tribal objectives and forest marketing programs;

(3) the regulation of Indian forest lands in a manner that will ensure the use of good method and order in harvesting so as to make possible, on a sustained yield basis, continuous productivity and a perpetual forest business;

(4) the development of Indian forest lands and associated value-added industries by Indians and Indian tribes to promote self-sustaining communities, so that Indians may receive from their Indian forest land not only stumpage value, but also the benefit of all the labor and profit that such Indian forest land is capable of yielding;

(5) the retention of Indian forest land in its natural state when an Indian tribe determines that the recreational, cultural, aesthetic, or traditional values of the Indian forest land represents the highest and best use of the land;

(6) the management and protection of forest resources to retain the beneficial effects to Indian forest lands of regulating water run-off and minimizing soil erosion; and

(7) the maintenance and improvement of timber productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural and other traditional values.

(Pub. L. 101-630, title III, §305, Nov. 28, 1990, 104 Stat. 4535.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 3105. Forest management deduction**(a) Withholding of deduction**

Pursuant to the authority of section 413 of this title, the Secretary shall withhold a reasonable deduction from the gross proceeds of sales of forest products harvested from Indian forest land under a timber sale contract, permit, or other harvest sale document, which has been approved by the Secretary, to cover in whole or part the cost of managing and protecting such Indian forest land.

(b) Amount of deduction

Deductions made pursuant to subsection (a) of this section shall not exceed the lesser amount of—

- (1) 10 percent of gross proceeds, or
- (2) the percentage of gross proceeds collected on November 28, 1990, as forest management deductions by the Secretary on such sales of Indian forest products,

unless the appropriate Indian tribe consents to an increase in the deductions.

(c) Use of deduction

The full amount of any deduction collected by the Secretary shall be expended according to an approved expenditure plan, approved by the Secretary and the appropriate Indian tribe, for the performance of forest land management activities on the reservation from which such deductions are collected and shall be made available to the tribe, upon its request, by contract or agreement for the performance of such activities.

(d) Limitations

(1) Forest management deductions withheld pursuant to this section shall not be available to—

- (A) cover the costs that are paid from funds appropriated specifically for fire suppression or pest control, or
- (B) otherwise offset Federal appropriations for meeting the Federal trust responsibility for management of Indian forest lands.

(2) No other forest management deductions derived from Indian forest lands shall be collected to be covered into the general funds of the United States Treasury.

(Pub. L. 101-630, title III, §306, Nov. 28, 1990, 104 Stat. 4536.)

§ 3106. Forest trespass**(a) Civil penalties; regulations**

Not later than 18 months from November 28, 1990, the Secretary shall issue regulations that—

- (1) establish civil penalties for the commission of forest trespass which provide for—
 - (A) collection of the value of the products illegally removed plus a penalty of double their value,
 - (B) collection of the costs associated with damage to the Indian forest land caused by the act of trespass, and
 - (C) collection of the costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports,

witness expenses, demand letters, court costs, and attorney fees;

(2) designate responsibility with the Department of the Interior for the detection and investigation of forest trespass; and

(3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

(b) Treatment of proceeds

The proceeds of civil penalties collected under this section shall be treated as proceeds from the sale of forest products from the Indian forest lands upon which such trespass occurred.

(c) Concurrent jurisdiction

Indian tribes which adopt the regulations promulgated by the Secretary pursuant to subsection (a) of this section shall have concurrent civil jurisdiction to enforce the provisions of this section and the regulation promulgated thereunder. The Bureau of Indian Affairs and other agencies of the Federal Government shall, at the request of the tribe, defer to tribal prosecutions of forest trespass cases. Tribal court judgments regarding forest trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section.

(Pub. L. 101-630, title III, §307, Nov. 28, 1990, 104 Stat. 4537.)

§ 3107. Direct payment of forest products receipts**(a) Regulations**

Notwithstanding any other law, the Secretary shall, within 1 year from November 28, 1990, promulgate regulations providing for the payment of the receipts from the sale of Indian forest products as provided in this section.

(b) Payment into a bank depository

Upon the request of an Indian tribe, the Secretary shall provide that the purchaser of the forest products of such tribe, which are harvested under a timber sale contract, permit or other harvest sale document which has been approved by the Secretary, shall make prompt direct payments of the gross proceeds of sales of such forest products, less any amounts segregated as forest management deductions pursuant to section 3105 of this title, into a bank depository account designated by such Indian tribe.

(Pub. L. 101-630, title III, §308, Nov. 28, 1990, 104 Stat. 4537.)

§ 3108. Secretarial recognition of tribal laws

Subject to the Secretary's responsibilities as reflected in sections 3101(2) and 3102(1) of this title and unless otherwise prohibited by Federal statutory law, the Secretary shall comply with tribal laws pertaining to Indian forest lands, including laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian forest lands. Such cooperation shall include—

- (1) assistance in the enforcement of such laws;
- (2) provision of notice of such laws to persons or entities undertaking activities on Indian forest lands; and