

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, §101(c) [title III, §327], Apr. 26, 1996, 110 Stat. 1321-156, 1321-206; renumbered title I, Pub. L. 104-140, §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—

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

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

“(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.

“(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.

“(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).

“(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.

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

“(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.

“(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, §2001, July 27, 1995, 109 Stat. 240, as amended by Pub. L. 104-134, title I, §101(c) [title III, §316], Apr. 26, 1996, 110 Stat. 1321-156, 1321-202; renumbered title I, Pub. L. 104-140, §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. 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, title III, §322, Oct. 5, 1992, 106 Stat. 1419, provided that:

“(a) IN GENERAL.—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 [1600] et seq.) and shall modify the procedure for appeals of decisions concerning such projects.

“(b) NOTICE AND COMMENT.—

“(1) NOTICE.—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 by—

“(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,

“(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

“(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.

“(2) COMMENT.—The Secretary shall accept comments on the proposed action within 30 days after publication of the notice in accordance with paragraph (1).

“(c) RIGHT TO APPEAL.—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.

“(d) DISPOSITION OF AN APPEAL.—

“(1) INFORMAL DISPOSITION.—

“(A) IN GENERAL.—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.

“(B) TIME AND LOCATION OF THE MEETING.—Each meeting in accordance with subparagraph (A) shall take place—

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

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

“(2) FORMAL REVIEW.—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.

“(3) TIME FOR DISPOSITION.—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.

“(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.

“(e) STAY.—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 decision—

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

“(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).”

§ 1613. 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. Severability

If any provision of this subchapter or the application thereof to any person or circumstances