

(2) Avoidance of adverse impacts

In carrying out paragraph (1), the Secretary shall avoid adverse impacts to cultural items and human remains, to the maximum extent practicable.

(Pub. L. 110-234, title VIII, §8103, May 22, 2008, 122 Stat. 1287; Pub. L. 110-246, §4(a), title VIII, §8103, June 18, 2008, 122 Stat. 1664, 2049.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

DEFINITION OF "SECRETARY"

"Secretary" as meaning the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

§ 3054. Temporary closure for traditional and cultural purposes**(a) Recognition of historic use**

To the maximum extent practicable, the Secretary shall ensure access to National Forest System land by Indians for traditional and cultural purposes, in accordance with subsection (b), in recognition of the historic use by Indians of National Forest System land.

(b) Closing land from public access**(1) Authority to close**

Upon the approval by the Secretary of a request from an Indian tribe, the Secretary may temporarily close from public access specifically identified National Forest System land to protect the privacy of tribal activities for traditional and cultural purposes.

(2) Limitation

A closure of National Forest System land under paragraph (1) shall affect the smallest practicable area for the minimum period necessary for activities of the applicable Indian tribe.

(3) Consistency

Access by Indian tribes to National Forest System land under this subsection shall be consistent with the purposes of Public Law 95-341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).

(Pub. L. 110-234, title VIII, §8104, May 22, 2008, 122 Stat. 1288; Pub. L. 110-246, §4(a), title VIII, §8104, June 18, 2008, 122 Stat. 1664, 2049.)

REFERENCES IN TEXT

The American Indian Religious Freedom Act, referred to in subsec. (b)(3), is Pub. L. 95-341, Aug. 11, 1978, 92 Stat. 469, which is classified to sections 1996 and 1996a 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 1996 of Title 42 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

DEFINITION OF "SECRETARY"

"Secretary" as meaning the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

§ 3055. Forest products for traditional and cultural purposes**(a) In general**

Notwithstanding section 472a of title 16, the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes.

(b) Prohibition

Trees, portions of trees, or forest products provided under subsection (a) may not be used for commercial purposes.

(Pub. L. 110-234, title VIII, §8105, May 22, 2008, 122 Stat. 1288; Pub. L. 110-246, §4(a), title VIII, §8105, June 18, 2008, 122 Stat. 1664, 2050.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

DEFINITION OF "SECRETARY"

"Secretary" as meaning the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

§ 3056. Prohibition on disclosure**(a) Nondisclosure of information****(1) In general**

The Secretary shall not disclose under section 552 of title 5 (commonly known as the "Freedom of Information Act"), information relating to—

(A) subject to subsection (b)(1),¹ human remains or cultural items reburied on National Forest System land under section 3053 of this title; or

(B) subject to subsection (b)(2), resources, cultural items, uses, or activities that—

(i) have a traditional and cultural purpose; and

(ii) are provided to the Secretary by an Indian or Indian tribe under an express expectation of confidentiality in the context of forest and rangeland research activities carried out under the authority of the Forest Service.

(2) Limitations on disclosure

Subject to subsection (b)(2), the Secretary shall not be required to disclose information under section 552 of title 5 (commonly known as the "Freedom of Information Act"), concerning the identity, use, or specific location in the National Forest System of—

(A) a site or resource used for traditional and cultural purposes by an Indian tribe; or

(B) any cultural items not covered under section 3053 of this title.

(b) Limited release of information**(1) Reburial**

The Secretary may disclose information described in subsection (a)(1)(A)² if, before the disclosure, the Secretary—

(A) consults with an affected Indian tribe or lineal descendent;

¹ So in original. Probably should be "(b)(1)".

² So in original. Probably should be "(a)(1)(A)".

(B) determines that disclosure of the information—

(i) would advance the purposes of this chapter; and

(ii) is necessary to protect the human remains or cultural items from harm, theft, or destruction; and

(C) attempts to mitigate any adverse impacts identified by an Indian tribe or lineal descendant that reasonably could be expected to result from disclosure of the information.

(2) Other information

The Secretary, in consultation with appropriate Indian tribes, may disclose information described under paragraph (1)(B) or (2) of subsection (a) if the Secretary determines that disclosure of the information to the public—

(A) would advance the purposes of this chapter;

(B) would not create an unreasonable risk of harm, theft, or destruction of the resource, site, or object, including individual organic or inorganic specimens; and

(C) would be consistent with other applicable laws.

(Pub. L. 110-234, title VIII, §8106, May 22, 2008, 122 Stat. 1288; Pub. L. 110-246, §4(a), title VIII, §8106, June 18, 2008, 122 Stat. 1664, 2050.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

DEFINITION OF “SECRETARY”

“Secretary” as meaning the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

§ 3057. Severability and savings provisions

(a) Severability

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance is held invalid, the application of such provision or circumstance and the remainder of this chapter shall not be affected thereby.

(b) Savings

Nothing in this chapter—

(1) diminishes or expands the trust responsibility of the United States to Indian tribes, or any legal obligation or remedy resulting from that responsibility;

(2) alters, abridges, repeals, or affects any valid agreement between the Forest Service and an Indian tribe;

(3) alters, abridges, diminishes, repeals, or affects any reserved or other right of an Indian tribe; or

(4) alters, abridges, diminishes, repeals, or affects any other valid existing right relating to National Forest System land or other public land.

(Pub. L. 110-234, title VIII, §8107, May 22, 2008, 122 Stat. 1289; Pub. L. 110-246, §4(a), title VIII, §8107, June 18, 2008, 122 Stat. 1664, 2051.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

CHAPTER 33—NATIONAL INDIAN FOREST RESOURCES MANAGEMENT

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§ 3101. Findings

The Congress finds and declares that—

(1) the forest lands of Indians are among their most valuable resources and Indian forest lands—

(A) encompass more than 15,990,000 acres, including more than 5,700,000 acres of commercial forest land and 8,700,000 acres of woodland,

(B) are a perpetually renewable and manageable resource,

(C) provide economic benefits, including income, employment, and subsistence, and

(D) provide natural benefits, including ecological, cultural, and esthetic values;

(2) the United States has a trust responsibility toward Indian forest lands;

(3) existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian forest lands;

(4) the Federal investment in, and the management of, Indian forest land is significantly below the level of investment in, and management of, National Forest Service forest land, Bureau of Land Management forest land, or private forest land;

(5) tribal governments make substantial contributions to the overall management of Indian forest land; and

(6) there is a serious threat to Indian forest lands arising from trespass and unauthorized harvesting of Indian forest land resources.

(Pub. L. 101-630, title III, §302, Nov. 28, 1990, 104 Stat. 4532.)

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-278, §1, July 22, 2004, 118 Stat. 868, provided that: “This Act [enacting section 3115a of this title] may be cited as the ‘Tribal Forest Protection Act of 2004’.”

SHORT TITLE

Pub. L. 101-630, title III, §301, Nov. 28, 1990, 104 Stat. 4532, provided that: “This title [enacting this chapter]