

Counties, in northern California. Effective on October 1, 1978, there are authorized such sums as may be necessary to carry out the employment and economic mitigation provisions of this Act: *Provided*, That the authority to make payments under this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 95-250, title I, §102(a), (b), Mar. 27, 1978, 92 Stat. 166, 167.)

#### REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c-1 and 79k to 79q of this title, amended former section 1a-1 and sections 79b and 79c of this title, and enacted provisions set out and formerly set out as notes under this section. For complete classification of this Act to the Code, see Tables.

Sections 79b and 79c of this title, referred to in subsec. (a), was in the original "the first section of this Act", meaning section 101 of Pub. L. 95-250. Provisions of section 101 relating to the addition of property to Redwood National Park are classified to sections 79b and 79c of this title.

#### CODIFICATION

Section was not enacted as part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

#### STUDY OF TIMBER HARVEST SCHEDULING ALTERNATIVES FOR SIX RIVERS NATIONAL FOREST; SCOPE; REPORT TO CONGRESS

Pub. L. 95-250, title I, §102(c), Mar. 27, 1978, 92 Stat. 167, directed Secretary of Agriculture, within one year after Mar. 27, 1978, to prepare and transmit to Congress a study of timber harvest scheduling alternatives for Six Rivers National Forest, which alternatives were to exclude timber inventories standing on units of Wilderness Preservation System at time of study and were to be consistent with laws applicable to management of national forests.

#### REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Pub. L. 95-250, title I, §109, Mar. 27, 1978, 92 Stat. 172, provided that: "Unless otherwise indicated hereinbefore, a reference to the Secretary will refer to the Secretary of the Department of the Interior, except in subsections 103(d) through 103(i) [section 79I(d) to (i) of this title], where a reference to the Secretary will refer to the Secretary of the Department of Labor."

### § 79I. Employment of personnel for rehabilitation, protection, and improvements of additional lands

#### (a) Appointment and compensation of personnel for implementation of protection and enhancement programs

In order to utilize the skills of individuals presently working in the woods and in the mills to the greatest degree possible to both ease the personal economic effects of this taking, and to assist in the necessary rehabilitation, protection, and improvement of lands acquired by this Act through implementation of sound rehabilitation and land use practices, the Secretary shall have power to appoint and fix the compensation of seven full-time and thirty-one temporary personnel to assist in carrying out such programs necessary for the protection and enhancement of Redwood National Park.

#### (b) Appointment and compensation of personnel for administration of expanded Park; appointment, etc., of additional personnel

In order to effectively administer the expanded Redwood National Park created by this Act in a manner that will provide maximum protection to its resources and to provide for maximum visitor use and enjoyment to ease the local economic effects of this taking, the Secretary shall have power to appoint and fix the compensation of two full-time and twenty temporary employees in the competitive service. The Secretary shall further have power to appoint and fix the compensation of an additional thirty-two full-time and forty temporary employees in the competitive service as provided by this subsection at the time of the donation of those park lands or interests in land owned by the State of California as are within the boundaries of Redwood National Park as provided herein. In filling these positions, preference shall be given to those State employees affected by this transfer for a period not to exceed six years from the date of transfer; permanent State civil service employees shall be provided the opportunity to transfer to a comparable Federal civil service classification notwithstanding applicable civil service laws and regulations.

#### (c) Job positions subject to preferential treatment for affected employees

An affected employee shall be given full consideration for certain civilian jobs as provided in this section both with the Federal Government and with those private employers that have certain undertakings or programs that involve Federal participation or approval for the period beginning on March 27, 1978, and ending September 30, 1984, if the positions will be primarily located in Humboldt or Del Norte Counties or other counties in California adjacent thereto, and if the employee is otherwise qualified under this section.

#### (d) Procedures applicable to Federal agencies for creating or filling job positions; applicants subject to preferential treatment; considerations for employment

(1) Any Federal agency that is creating or filling a civilian Federal job that is within the scope of clause (2)(A) of this subsection, pursuant to contract, civil service merit system, or otherwise, that will be primarily located in Humboldt or Del Norte Counties, California, or other counties in California adjacent thereto, must provide notice in advance of the availability of that job and must provide qualified affected employee applicants for these positions with full consideration for these positions if the further conditions set forth in clause (2)(B) of this subsection are met. The notice required by this paragraph shall be as provided by applicable law and regulation through the offices of the Employment and Training Services located in Humboldt and Del Norte Counties, California, and through such other means as are likely to gain the attention of affected employees.

(2) Consideration for employment under this section shall be provided under the following conditions:

(A) the job involves skills and training that could reasonably be expected to have been gained by individuals who have been employed as logging and related woods employees or sawmill, plywood, and other wood processing employees, or office employees, or that can reasonably be expected to be gained while so employed, or pursuant to retraining as provided herein; and

(B) the applicant has the ability, or can reasonably be expected to have the ability after appropriate training of reasonable duration as further provided herein, to perform the duties of the job: *Provided*, That the full consideration shall not be required with respect to those affected employee applicants requiring training in a situation where the schedule for completion of the work is such that the period during which said employee can reasonably be expected to work following completion of training is determined by the Secretary to be incommensurate with the time and funds required to provide said employee with the necessary training.

**(e) Private employer requirements for filling covered employment positions with affected employees pursuant to Federal contracts, etc.; procedures applicable and considerations for employment**

(1) Any Federal agency involved in the manner provided herein with a private employer responsible for filing<sup>1</sup> an employment position that is within the scope of clause (2)(A) of subsection (d), above, that will be primarily located in Humboldt or Del Norte Counties, or other counties in California adjacent thereto, is directed to require that any Federal contracts, grants, subsidies, loans, or other forms of funding assistance, and any Federal lease, permit, license, certificate, or other entitlement for use, not constituting an existing property right as of March 27, 1978, that is a condition to or a requirement of the conduct of harvesting and related activities or replanting and land rehabilitation or the conduct of wood processing and related activities or the conduct of highway construction and related activities shall be subject to and conditioned upon said private employer giving full consideration to affected employees as provided herein.

(2) Any private employer who participates with a Federal agency in the manner described above and who is, accordingly, subject to the requirements as provided herein, shall—

(A) provide notice of the availability of those jobs described in subsection (d)(2)(A) in the manner generally provided by subsection (d)(1); and

(B) provide full consideration to qualified affected employee applicants for these positions if the further conditions established by clause (2)(B) of subsection (d) are met.

**(f) Agreements with affected employers and industry employers for full consideration to employment of affected employees formerly employed by affected employers; implementation**

The Secretary is directed to seek and authorized to enter into agreements with affected em-

ployers and industry employers providing that full consideration shall be given with respect to the employment of affected employees who had been employed by affected employers in jobs that may become available in Humboldt and Del Norte Counties and other counties adjacent thereto. The execution and carrying out of such an agreement, or the giving of full consideration to the employment of affected employees under subsection (c) of this section, shall not subject an employer to any additional liability or obligations under any Federal or State equal employment law, rule, regulation, or order.

**(g) Implementation of requirements**

(1) The Secretary, except as otherwise provided, shall be responsible for the implementation of this section and—

(A) is authorized and directed to make needed training available, upon application, to an affected employee applicant who, although not presently qualified for a position, can be reasonably expected to be qualified after appropriate training;

(B) is authorized to take such actions as may be necessary to ensure that an affected employee is not denied full consideration because of the need for training where there is no substantial reason to believe that the applicant would be unable to perform the duties of the job after proper training. If the job is one which must be filled while the affected employee would be in training, the Secretary shall encourage the employer to fill the job only on a temporary basis subject to the successful completion of the training by the affected employee;

(C) shall require that, in a case in which two or more affected employee applicants have approximately equal qualifications for a job for which they are to receive full consideration, that applicant with the greatest creditable service shall be given preference among those applicants entitled to full consideration; and

(D) upon the filing of a complaint by an employee who alleges that said employee's rights to full consideration were disregarded, the Secretary shall make a finding on the merits of such complaint. If it is determined that there has been noncompliance with this section, the Secretary shall take such action as may be appropriate to correct the situation.

(2) To assist in implementing this section, agencies shall notify the Secretary, in advance, of any job opening as provided for by subsection (d) and of any Federal commitment as provided for by subsection (e).

(3) The Secretary shall—

(A) seek the cooperation of the State of California and the county and local governments within Humboldt and Del Norte Counties in the implementation of the provisions of this section and in the adoption of similar provisions for full consideration of affected employees with regard to State, county, and local jobs and activities; and

(B) appoint, from among nominees proposed by certified or recognized unions representing employees, a person or persons who shall serve as the Secretary's liaison with employees and their union and as consultant to the Secretary

<sup>1</sup> So in original. Probably should be "filling".

with regard to the administration of those provisions of this Act for which the Secretary is responsible.

**(h) Judicial review of determination of Secretary respecting employee, etc.; procedures applicable**

An employee, a group of employees, a certified or recognized union, or an authorized representative of such employee or group, aggrieved by any determination by the Secretary under this Act shall be entitled to judicial review of such determination in the same manner and under the same conditions as provided by section 2395 of title 19, except that such review shall be in the appropriate court of appeals of the United States, and the judgment of such court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

**(i) Additional or alternative rights under existing labor laws, regulations, or contracts unaffected; compensation of employees appointed to Federal jobs**

Nothing in this section shall be construed to affect any additional or alternative rights under a law, regulation, or contract (including, but not limited to, veteran preference and contracts between private employers and unions) in effect as of March 27, 1978, and the implementation of this section shall be carried out in accord with applicable civil service laws and regulations except as otherwise provided for in this section. Employees appointed to Federal jobs pursuant to this section shall have their compensation fixed at rates not to exceed that now or hereafter prescribed for the highest rate of grade 15 of the General Schedule under section 5332 of title 5.

(Pub. L. 95-250, title I, §103, Mar. 27, 1978, 92 Stat. 167; Pub. L. 96-417, title VI, §602, Oct. 10, 1980, 94 Stat. 1744; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(b)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-417.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), (g)(3)(B), and (h), means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c-1 and 79k to 79q of this title, amended former section 1a-1 and sections 79b and 79c of this title, and enacted provisions set out and formerly set out as notes under section 79k of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-277, §101(f) [title VIII, §405(b)(1)], struck out at end “In filling these positions, preference shall be given to affected employees (as defined in title II of this Act) for a period ending on September 30, 1984, notwithstanding applicable civil service laws and regulations.”

Subsec. (b). Pub. L. 105-277, §101(f) [title VIII, §405(b)(2)], struck out after first sentence “In filling these positions, preference shall be given to affected employees (as defined in title II) for a period ending on September 30, 1984, notwithstanding applicable civil service laws and regulations.”

1980—Subsec. (h). Pub. L. 96-417 substituted provision for judicial review under section 2395 of title 19 for re-

view under section 2322 of title 19 and provided for review in the appropriate court of appeals of the United States and for review of the judgment of the court of appeals by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Reference to Secretary, unless otherwise indicated, as reference to Secretary of Department of the Interior, except for purposes of subsecs. (d) to (i) of this section, where reference to Secretary shall refer to Secretary of the Department of Labor, see section 109 of Pub. L. 95-250, set out as a note under section 79k of this title.

**§ 79m. Annual reporting requirements; contents; comprehensive general management plan; submission date and scope**

(a) The Secretary shall submit an annual written report to the Congress on January 1, 1979, and annually thereafter for ten years, reporting on the status of payment by the Secretary for real property acquired pursuant to section 79c(b)(1) and section 79b of this title; the status of the actions taken regarding land management practices and watershed rehabilitation efforts authorized by section 79c(e) and section 79k(b) of this title; the status of the efforts to mitigate adverse economic impacts as directed by this Act; this<sup>1</sup> status of National Park Service employment requirements as authorized by section 79l of this title; the status of the new bypass highway and of the agreement for the donation of the State park lands as contemplated by section 79c(b)(2) of this title; and, the status of the National Park Service general management plan for the park.

(b) No later than January 1, 1980, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources of the Senate, a comprehensive general management plan for Redwood National Park, to include but not be limited to the following:

(1) the objectives, goals, and proposed actions designed to assure the preservation and perpetuation of a natural redwood forest ecosystem;

(2) the type and level of visitor use to be accommodated by the park, by specific area, with specific indications of carrying capacities consistent with the protection of park resources;

(3) the type, extent, and estimated cost of development proposed to accommodate visitor use and to protect the resource, to include anticipated location of all major development areas, roads, and trails; and

(4) the specific locations and types of foot trail access to the Tall Trees Grove, of which one route shall, unless shown by the Secretary

<sup>1</sup> So in original. Probably should be “the”.