

“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 descendant;

(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 L. 110-234 was repealed by section 4(a) of Pub.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.

¹ So in original. Probably should be “(b)(1).”

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

EFFECTIVE DATE

Section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.

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.

EFFECTIVE DATE

Section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.

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] may be cited as the 'National Indian Forest Resources Management Act'."

§ 3102. Purposes

The purposes of this chapter are to—

(1) allow the Secretary of the Interior to take part in the management of Indian forest lands, with the participation of the lands' beneficial owners, in a manner consistent with the Secretary's trust responsibility and with the objectives of the beneficial owners;

(2) clarify the authority of the Secretary to make deductions from the proceeds of sale of Indian forest products, assure the use of such deductions on the reservation from which they are derived solely for use in forest land management activities, and assure that no other deductions shall be collected;

(3) increase the number of professional Indian foresters and related staff in forestry programs on Indian forest land; and

(4) provide for the authorization of necessary appropriations to carry out this chapter for the protection, conservation, utilization, management, and enhancement of Indian forest lands.

(Pub. L. 101-630, title III, §303, Nov. 28, 1990, 104 Stat. 4532.)

§ 3103. Definitions

For the purposes of this chapter, the term—

(1) "Alaska Native" means Native as defined in section 1602(b) of title 43;

(2) "forest" means an ecosystem of at least one acre in size, including timberland and woodland, which—

(A) is characterized by a more or less dense and extensive tree cover,

(B) contains, or once contained, at least ten percent tree crown cover, and

(C) is not developed or planned for exclusive nonforest use;

(3) "Indian forest land" means Indian lands, including commercial and non-commercial timberland and woodland, that are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover, regardless whether a formal inspection and land classification action has been taken;

(4) "forest land management activities" means all activities performed in the management of Indian forest lands, including—

(A) all aspects of program administration and executive direction such as—

(i) development and maintenance of policy and operational procedures, program oversight, and evaluation,

(ii) securing of legal assistance and handling of legal matters,

(iii) budget, finance, and personnel management, and

(iv) development and maintenance of necessary data bases and program reports;

(B) all aspects of the development, preparation and revision of forest inventory and management plans, including aerial photography, mapping, field management inventories and re-inventories, inventory analysis, growth studies, allowable annual cut calculations, environmental assessment, and forest history, consistent with and reflective of tribal integrated resource management plans;

(C) forest land development, including forestation, thinning, tree improvement activities, and the use of silvicultural treatments to restore or increase growth and yield to the full productive capacity of the forest environment;

(D) protection against losses from wildfire, including acquisition and maintenance of fire fighting equipment and fire detection systems, construction of firebreaks, hazard reduction, prescribed burning, and the development of cooperative wildfire management agreements;

(E) protection against insects and disease, including—

(i) all aspects of detection and evaluation,