

**§ 539b. Fisheries on national forest lands in Alaska**

**(a) Regulations for protection and maintenance of habitats**

The Secretary of Agriculture shall, in consultation with the Secretaries of Commerce and the Interior, and with the State of Alaska, pursuant to his existing authority to manage surface resources, promulgate such reasonable regulations as he determines necessary after consideration of existing laws and regulations to maintain the habitats, to the maximum extent feasible, of anadromous fish and other foodfish, and to maintain the present and continued productivity of such habitat when such habitats are affected by mining activities on national forest lands in Alaska. The Secretary of Agriculture, in consultation with the State, shall assess the effects on the populations of such fish in determinations made pursuant to this subsection.

**(b) Approved plan for mining operations; requirements; review; modification; suspension of activities**

Because of the large scale of contemplated mining operations and the proximity of such operations to important fishery resources, with respect to mining operations in the Quartz Hill area of the Tongass National Forest, the regulations of the Secretary shall, pursuant to this subsection, include a requirement that all mining operations involving significant surface disturbance shall be in accordance with an approved plan of operations. Before approving any proposed plan or distinct stages of such plan of operations for any such claims when any fishery habitat or fishery value may be affected, the Secretary shall, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, determine—

(1) that such plan or stages of such plan are based upon and shall include studies or information which he determines are adequate for—

(A) evaluating the water quality and water quantity, fishery habitat, and other fishery values of the affected area; and

(B) evaluating to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under such plan of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components;

(2) that such plan adequately identifies the risks the operations under such plan or such stages might pose to and the benefits the operations under such plan might provide to—

(A) the natural stability and the present and continued productivity of anadromous fish and other foodfish;

(B) fishery habitat, including but not limited to water quality and water quantity; and

(C) other fishery values;

(3) that such plan includes provisions which he determines are adequate for the purposes of—

(A) preventing significant adverse environmental impacts to the fishery habitat (in-

cluding but not limited to water quality and water quantity) or other fishery values; and  
(B) maintaining present and continued productivity of the habitat of anadromous fish and other foodfish which might be affected by the mining and other activities proposed to be conducted in accordance with such plan or such stages of the plan of operations;

(4)(A) the Secretary shall ensure, to the maximum extent feasible, that the cumulative effects of activities carried out under the operating plan will not interfere with the ability to collect baseline information needed by the Secretary to evaluate the effects of various stages of the operating plan on the fishery habitat and productivity of such habitats;

(B) the Secretary shall review such plan and mining activities on at least an annual basis. With respect to any mining or associated activities, the Secretary, if he determines upon notice and hearing, that the activities are harmful to the continued productivity of anadromous fish, or other foodfish populations or fishery habitat, shall require a modification of the plan to eliminate or mitigate, if necessary, the harmful effects of such activities; and

(5) upon a finding by the Secretary that a mining activity conducted as a part of a mining operation exists which constitutes a threat of irreparable harm to anadromous fish, or other foodfish populations or their habitat, and that immediate correction is required to prevent such harm, he may require such activity to be suspended for not to exceed seven days, provided the activity may be resumed at the end of said seven-day period unless otherwise required by a United States district court.

**(c) Authority of State of Alaska to manage fish and wildlife**

Nothing in this section shall enlarge or diminish the responsibility and authority of the State of Alaska to manage fish and wildlife or to exercise its other responsibilities under applicable law.

**(d) Authority of Secretary of Agriculture to manage national forests**

Except as specifically provided in subsection (b)(5), nothing in this section shall enlarge or diminish the responsibilities and authorities of the Secretary of Agriculture to manage the national forests.

(Pub. L. 96-487, title V, § 505, Dec. 2, 1980, 94 Stat. 2405.)

**§ 539c. Cooperative fisheries planning; report to Congress**

(a) The Secretary of Agriculture is directed to implement a cooperative planning process for the enhancement of fisheries resources through fish hatchery and aquaculture facilities and activities in the Tongass National Forest. Participation in this process shall include but not be limited to the State of Alaska and appropriate nonprofit aquaculture corporations. The Secretary may contract with private, nonprofit associations for services in such planning.

(b) Each subsequent revision of National Forest management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.] and the National Forest Management Act of 1976 shall contain a report on the status of the planning process undertaken under this paragraph, including, but not limited to, a description of current hatchery and aquaculture projects, an analysis of the success of these projects, and a prioritized list of projects anticipated for the duration of the management plan. The report shall be submitted by the Secretary to the Congress with recommendations for any legislative action which the Secretary may deem necessary to implement the proposed hatchery and aquaculture projects.

(Pub. L. 96-487, title V, §507, Dec. 2, 1980, 94 Stat. 2412.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (b), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The National Forest Management Act of 1976, referred to in subsec. (b), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of this title, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of this title, repealed sections 476, 513, and 514 of this title, and enacted provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

#### § 539d. National forest timber utilization program

##### (a) Tongass National Forest timber supply; satisfaction of certain market demands

Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.

##### (b) Insured and guaranteed loan program for purchasers of national forest materials in Alaska; authorization of appropriations

(1) The Secretary is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the

participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

(2) To carry out the special loan program established by this section, there are hereby authorized beginning after the fiscal year 1980 to be appropriated \$5,000,000 from National Forest Fund receipts, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

##### (c) Study on increase of timber yields on national forest lands in Alaska; transmittal to Congress

Within three years after December 2, 1980, the Secretary shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

##### (d) Identification of lands not suited for timber production; consideration of economic factors unnecessary

All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.

##### (e) Protection of riparian habitat; maintenance of buffer zones in Tongass National Forest; relocation of prior independent sale or released volume

In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than one hundred feet in width on each side of all Class I streams in the Tongass National Forest, and on those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation handbook<sup>1</sup> (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer

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