

# Indicator 7.45:

U.S. Forest Sustainability Indicators <https://www.fs.fed.us/research/sustain/>

## Legislation and policies supporting the sustainable management of forests

Frederick W. Cubbage, Kathleen A. McGinley and Jay O’Laughlin

October 3, 2018

### What is the indicator and why is it important?

Legislation and policies designed to conserve and improve forest functions and values are a prerequisite to achieving sustainable forest management. Forests at all scales (stand, landscape, local, regional, national, global) benefit substantially from the application of forest practices that can ensure sustained use, management, and protection of important social, economic, and ecological values. Markets efficiently provide many goods and services, but government intervention may be required for the equitable allocation and management of ecosystem services and public goods, and to redress market failures. A wide variety of international, Federal, State, and local forest policies exist to improve sustainable forest management and protection, as well as evolving new nonstate market systems, such as forest certification and corporate responsibility efforts.

### What does the indicator show?

The number and variety of national and subnational legislation and policies that affect forest sustainability in the United States cannot be summarized succinctly. A complex web of policies and laws governs forests across the landscape with significant differences among States. Federal lands have specific laws dictating forest management and protection; private lands have a complex set of voluntary and regulatory policies and laws that govern forestry; and State and local lands have various legal and political directives.

Laws and other policy tools can be characterized as procedural or substantive—either dictating procedures that must be followed before an action can be taken (e.g., an environmental analysis), or requiring specific actions and

practices (e.g., leaving streamside buffers). Laws related to forestry may include both specific substantive rules and general processes that agencies or landowners must follow. In addition, a variety of laws and policy tools regulate; offer incentives; and provide research, educational, and technical assistance for private forest landowners. This spectrum of laws and policy approaches provides comprehensive direction for sustainable forest management practices at the Federal, State, and local levels.

**Federal lands and laws.** There is no single national forest policy that governs all public and private forest lands in the United States. Indeed, there is no single policy that governs all Federal public forest lands. Several significant “organic acts” provide management discretion and authority for Federal lands owned by different Federal agencies, and many distinct regulations and agency policies implement those broad laws. Four agencies hold most of the Federal forest land in the United States. The U.S. Department of Agriculture, Forest Service (the agency owning the largest amount of Federal forest acreage) focuses on providing sustained, multiple uses on its lands, as governed by the National Forest Management Act of 1976 and several other laws and regulations, such as the new Forest Service 2012 Planning Rule. The U.S. Department of the Interior (DOI), National Park Service focuses on plant and wildlife protection and public enjoyment. The DOI Fish and Wildlife Service focuses on the conservation and protection of wildlife and their habitats on public as well as private lands. The DOI Bureau of Land Management focuses on sustaining the health, diversity, and productivity of its lands, which encompass the largest share of public rangelands in the West, as well as some forest lands. All Federal land management agencies have adopted the principles of ecosystem management at the management unit level as well as at the landscape scale.

A broad suite of environmental laws affects Federal and other public lands, as well as private forests and

businesses. These include the National Environmental Policy Act (NEPA) of 1970, which requires environmental impact analyses and statements for proposed Federal agency actions with potential for environmental impacts, as well as concomitant State NEPA acts. The Endangered Species Act of 1973 is intended to protect significantly imperiled species of flora and fauna and the ecosystems upon which they depend, on public and private lands. The Clean Air Act of 1970 and the Clean Water Act of 1972 are designed to control air and water pollution throughout the country. These and other Federal environmental laws and regulations have major impacts on public and private forest management.

**State forest policies.** Most States have legislation that governs the management of State forest lands, State forestry laws for private lands, and State environmental laws that are usually, but not always, linked to implementation of Federal environmental laws. Every State also has regulations governing prescribed forest fires and regulations regarding prevention and control of human-caused and naturally caused wildfires. Most private forest lands are not regulated directly by comprehensive forestry laws, with the exception of the extensive State forest practice acts in the West and a few States in the East that require reforestation and environmental protection. Instead, a variety of technical assistance, incentives, and educational efforts are used to influence private forest management. Best management practices (BMPs) and environmental laws provide some regulation of forestry or encourage best practices by voluntary means, and most States also regulate prescribed burning in some fashion. A plethora of county, local, and municipal regulations relate to tree protection, retention, roads, logging, and timber transport. With an increased focus on the use of biomass for energy, several States have developed biomass harvesting guidelines for retention or distribution of small and large down woody debris in order to protect soil productivity, water quality, and forest biodiversity.

One review found more than 100 State forest management laws that can be categorized into 9 basic types of regulatory legislation: forest management laws; policy and purpose laws; powers and duties laws or administrative legislation; land acquisition laws; private landowner laws regulating privately owned forest areas; educational and forest research laws; timber laws regulating the cutting, harvesting, and conservation of timber on State lands; prescribed burning and fire prevention laws; and disease and insect control laws. Sixty-six of these laws deal with forest land management, legislative policy, and the purposes, powers, and duties of State forestry agencies. Twenty-three of these laws concern timber resource

regulation and harvesting, forestry education and research, and prescribed burning laws or laws permitting periodic burning of forest areas to promote new growth. The remainder of these laws relate to acquisition of State forest lands, regulation of privately owned forest lands, and prevention of diseases and insect infestations.

**Forest certification systems.** In addition to Federal and State laws, policies, and regulations, there are three nonstate/private forest certification systems in the United States—the Forest Stewardship Council, the Sustainable Forestry Initiative, and the American Tree Farm System. These certification systems employ criteria and indicators to assess management and environmental, social, and economic components to certify forest management practices and processes at the forest management unit level. Their criteria and indicator frameworks are similar to the framework developed through the Montreal Process for assessing forests at a national level.

**International instruments.** Internationally, the United States is a member or observer for all major international forest-related instruments, initiatives, and institutions, which have increasing impacts on forest management. Most U.S. engagement stems from voluntary processes and initiatives, bilateral aid programs, or from being an active leader in international organizations. The United States has not ratified a few key international environmental agreements, including the Convention on Biological Diversity and the Kyoto Protocol to the Framework Convention on Climate Change. Some international engagement also is required via legally binding multilateral environmental agreements or trade agreements. U.S. engagement on international environmental issues is a complex collaborative process between many different U.S. agencies and representative scientists, development practitioners, trade representatives, and foreign policy specialists.

## What has changed since 2010?

All laws and regulations are reviewed periodically, but on an ad hoc basis and not according to a regular schedule. Changes in implementation since 2010 are more marked than are dramatic changes in laws. Most of the Federal forestry and environmental laws were enacted in the 1980s, but have seen a series of changes in their subsequent rules and regulations. For example, the Forest Service 2012 Planning Rule was a major innovation in the agency's planning process. The agency also developed National BMP standards for control of water pollution on national

forest lands in 2012. Additionally, biomass harvesting guidelines have been adopted by some States since 2010.

Forest landowners must strictly comply with prescriptions to protect any endangered or threatened species on their land, and these prescriptions have affected more private lands in the 2000s. Forest certification systems also have continued to expand since 2010, and all systems have revised their standards. Certification standards have continually become more rigorous, with greater levels of performance required for biodiversity and wildlife protection, community and stakeholder consultation, public reporting, and forest management practices. Some key binding and nonbinding international agreements also have increased effects on the protection and sustainable management of forests in the United States and abroad since the last report (e.g., United States-Peru Trade Promotion Agreement).