

Subtitle B--Cultural and Heritage Cooperation Authority

SEC. 8101. PURPOSES.

The purposes of this subtitle are--

- (1) to authorize the reburial of human remains and cultural items on National Forest System land, including human remains and cultural items repatriated under the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);
- (2) to prevent the unauthorized disclosure of information regarding reburial sites, including the quantity and identity of human remains and cultural items on sites and the location of sites;
- (3) to authorize the Secretary of Agriculture to ensure access to National Forest System land, to the maximum extent practicable, by Indians and Indian tribes for traditional and cultural purposes;
- (4) to authorize the Secretary to provide forest products, without consideration, to Indian tribes for traditional and cultural purposes;
- (5) to authorize the Secretary to protect the confidentiality of certain information, including information that is culturally sensitive to Indian tribes;
- (6) to increase the availability of Forest Service programs and resources to Indian tribes in support of the policy of the United States to promote tribal sovereignty and self-determination; and
- (7) to strengthen support for the policy of the United States of protecting and preserving the traditional, cultural, and ceremonial rites and practices of Indian tribes, in accordance with Public Law 95-341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).

SEC. 8102. DEFINITIONS.

In this subtitle:

- (1) **ADJACENT SITE**- The term `adjacent site' means a site that borders a boundary line of National Forest System land.
- (2) **CULTURAL ITEMS**- The term `cultural items' has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), except that the term does not include human remains.
- (3) **HUMAN REMAINS**- The term `human remains' means the physical remains of the body of a person of Indian ancestry.
- (4) **INDIAN**- The term `Indian' means an individual who is a member of an Indian tribe.
- (5) **INDIAN TRIBE**- The term `Indian tribe' means any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).
- (6) **LINEAL DESCENDANT**- The term `lineal descendant' means an individual that can trace, directly and without interruption, the ancestry of the individual through the traditional kinship system of an Indian tribe, or through the common law system of descent, to a known Indian, the human remains, funerary objects, or other sacred objects of whom are claimed by the individual.

(7) NATIONAL FOREST SYSTEM- The term 'National Forest System' has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(8) REBURIAL SITE- The term 'reburial site' means a specific physical location at which cultural items or human remains are reburied.

(9) TRADITIONAL AND CULTURAL PURPOSE- The term 'traditional and cultural purpose', with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe.

SEC. 8103. REBURIAL OF HUMAN REMAINS AND CULTURAL ITEMS.

(a) Reburial Sites- In consultation with an affected Indian tribe or lineal descendant, the Secretary may authorize the use of National Forest System land by the Indian tribe or lineal descendant for the reburial of human remains or cultural items in the possession of the Indian tribe or lineal descendant that have been disinterred from National Forest System land or an adjacent site.

(b) Reburial- With the consent of the affected Indian tribe or lineal descendant, the Secretary may recover and rebury, at Federal expense or using other available funds, human remains and cultural items described in subsection (a) at the National Forest System land identified under that subsection.

(c) Authorization of Use-

(1) IN GENERAL- Subject to paragraph (2), the Secretary may authorize such uses of reburial sites on National Forest System land, or on the National Forest System land immediately surrounding a reburial site, as the Secretary determines to be necessary for management of the National Forest System.

(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.

SEC. 8104. 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).

SEC. 8105. FOREST PRODUCTS FOR TRADITIONAL AND CULTURAL PURPOSES.

(a) In General- Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), 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.

SEC. 8106. PROHIBITION ON DISCLOSURE.

(a) Nondisclosure of Information-

(1) IN GENERAL- The Secretary shall not disclose under section 552 of title 5, United States Code (commonly known as the `Freedom of Information Act'), information relating to--

(A) subject to subsection (b)(1), human remains or cultural items reburied on National Forest System land under section 8103; 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, United States Code (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 8103.

(b) Limited Release of Information-

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

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

(B) determines that disclosure of the information--

(i) would advance the purposes of this subtitle; 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 subtitle;

- (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.

SEC. 8107. SEVERABILITY AND SAVINGS PROVISIONS.

- (a) Severability- If any provision of this subtitle, or the application of any provision of this subtitle to any person or circumstance is held invalid, the application of such provision or circumstance and the remainder of this subtitle shall not be affected thereby.
- (b) Savings- Nothing in this subtitle--
 - (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.