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National Forest System Management: Overview, Appropriations, and Issues for Congress

Updated September 5, 2019

Congressional Research Service
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R43872

CRS REPORT
Prepared for Members and
Committees of Congress

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SUMMARY

R43872

September 5, 2019

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National Forest System Management: Overview, Appropriations, and Issues for Congress

The 193 million acres of the National Forest System (NFS) comprise 154 national forests, 20 national grasslands, and several other federal land designations. Management of the NFS is one of the three principal responsibilities of the Forest Service (FS), an agency within the U.S. Department of Agriculture (USDA). Most NFS lands are concentrated in the western United States, although FS administers more federal land in the East than all other federal agencies combined. The Secretary of Agriculture has various authorities to acquire or dispose of NFS lands, although these are often constrained by geography or other factors.

The original forest reserves were established to improve and protect federal forests and watersheds and to provide a source of timber. Today, the NFS's statutory mission is to provide a variety of uses and values—timber production, watershed management, livestock grazing, energy and mineral development, outdoor recreation, fish and wildlife habitat management, and wilderness—without impairing the productivity of the land. Comprehensive land and resource management plans for each NFS unit (also known as *forest plans*) inform decisions on how those uses will be balanced and desired resource conditions. Although there is not a statutory mandate to generate revenue, FS is authorized to charge fees for many of the uses and services available on NFS lands and to use that revenue in various ways. In FY2018, FS generated a total of $283.4 million in revenue; timber harvests were the single largest source of revenue (57%). Growing demands for the various uses, values, and services have led to conflicts over the location and timing of activities.

Many have concern that degraded forest ecological conditions in the NFS are increasing the risk of insect or disease infestation or uncharacteristic wildfires, among other forest health concerns. Many have particular concern regarding accumulated levels of forest biomass (e.g., vegetation), which fuel fires and can facilitate insect or disease transmission, known as *hazardous fuels*. FS and other stakeholders have identified administrative process barriers and funding as two of many factors impeding progress toward forest restoration goals, and FS has proposed to increase the scale, scope, and implementation of projects to restore the resilience and resistance of NFS lands. There is disagreement, however, about how to achieve those objectives while ensuring compliance with other statutory requirements.

In FY2019, FS received a total of $2.02 billion to fund NFS management, approximately 29% of the $6.94 billion the agency received in discretionary appropriations. These figures reflect $854.3 million in emergency-designated supplemental appropriations provided to FS to respond to hurricanes and wildfires, of which $85.0 million was allocated to the NFS account. The NFS account includes several subaccounts, programs, and activities, many of which reflect the different ways in which the lands are used. The largest is Hazardous Fuels, which received 23% of the NFS appropriation in FY2019. This program funds activities to remove, modify, or manipulate vegetation to reduce the wildfire risk. Prior to FY2018, this program was funded through a different FS discretionary account. The addition of this program is one reason NFS appropriations have increased by 35% since FY2015.

Many also are concerned about the cost of wildfires. Although many wildfire management activities are funded separately from NFS management, some are concerned about the rising proportion of fire suppression and other fire-related costs on the rest of FS's budget. In FY2019, wildfire management-related activities accounted for 59% of the agency's total discretionary appropriation. Wildfire costs vary annually and are difficult to predict, and FS is authorized to transfer money out of other discretionary accounts to cover suppression costs; this is often referred to as *fire borrowing*. To address some of these concerns, the 115th Congress enacted a new mechanism for funding wildfire suppression (commonly referred to as the *wildfire funding fix)*, which is available starting in FY2020.

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The National Forest System (NFS) is administered by the Forest Service (FS) in the U.S. Department of Agriculture (USDA).[1] The 193-million-acre NFS comprises national forests, national grasslands, and various other designations across 43 states and Puerto Rico.[2] Although 87% of NFS lands are in the West, the FS administers more federal land in the East (26 million acres) than all other federal agencies combined. NFS lands are administered for sustained yields of multiple uses, including outdoor recreation (camping, hiking, hunting, sightseeing, etc.), livestock grazing, timber harvesting, watershed protection, and fish and wildlife habitats.

Ownership and use of the NFS—and federal lands more generally—have stirred controversy for decades. Competing public values concerning the NFS raise many questions and issues: how uses should be balanced and prioritized, whether and where Congress should designate areas for special purposes, and when and how FS should collect and distribute fees for land and resource uses, among others. Congress continues to examine these questions through legislative proposals, program oversight, and annual appropriations. The 115th Congress, for example, enacted several legislative changes affecting management of the NFS. For more information on those changes, see CRS Report R45696, *Forest Management Provisions Enacted in the 115th Congress*, by Katie Hoover et al.

This report provides an overview of the history and management of the NFS, including a discussion of the statutory framework for making land management plans and decisions as well as for acquiring or disposing of system lands. The report also discusses the multiple uses of the NFS and the revenue generated by those activities, appropriations to manage the NFS, and wildfire management issues and costs. It concludes with a discussion of the issues that Congress often debates regarding NFS management.

Background

In 1891, Congress granted the President the authority (now repealed) to establish forest reserves from the public domain.[3] Six years later, Congress stated that the forest reserves were

> to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of the citizens of the United States.[4]

Initially, the reserves were administered by the Division of Forestry in the Department of the Interior's General Land Office. In 1905, this division was combined with the USDA Bureau of Forestry (renamed the Forest Service), and the administration of the 56 million acres of forest

[1] Management of the National Forest System (NFS) is one of the Forest Service's (FS's) three principal responsibilities. The other two principal responsibilities are providing assistance programs to nonfederal forest owners and conducting forestry research programs. FS also provides international forestry assistance.

[2] The NFS is defined at 16 U.S.C. 1609(a). U.S. Department of Agriculture, U.S. Forest Service, *Land Areas Report (LAR)—as of September 30, 2018*, Table 1, at http://www.fs.fed.us/land/staff/lar/LAR2018/lar2018index.html. Hereinafter referred to as FS, *Land Areas Report*, 2018. The LAR includes several additional land designations in the NFS, such as research and experimental forests or areas. This includes a 140-acre experimental forest in the U.S. Virgin Islands.

[3] Public domain lands consist of lands ceded by the original states or obtained from a foreign sovereign through purchase, treaty, or other means (e.g., the Louisiana Purchase in 1803). Public domain lands may be governed by different laws than acquired federal lands, which were obtained from private entities or states.

[4] Organic Administration Act, Act of June 4, 1897 (16 U.S.C. §473).

reserves was transferred to the new agency within USDA.[5] In 1907, the reserves were renamed *national forests*.[6]

In 1906 and 1907, President Theodore Roosevelt more than doubled the acreage of the forest reserves. In response, Congress limited the authority of the President to add to the system in certain states in 1907.[7] In 1910, Congress continued the limitation, but then in 1911, Congress passed the Weeks Act to authorize additions to the NFS through the purchase of private lands.[8] Presidential authority to proclaim new national forests was terminated in 1976.[9] Under the Weeks Act and other authorities, the system has continued to grow, from 154 million acres in 1919 to 193 million acres in 2018. This growth has resulted from purchases and donations of private land and from transfers of other federal lands, primarily from the Bureau of Land Management (BLM, within the Department of the Interior). For more information on FS's authority to acquire lands, see the "Land Acquisition and Disposal" section of this report.

Organization

The NFS includes 154 national forests with 188.4 million acres (98% of the system), 20 national grasslands with 3.8 million acres (2%), and 110 other areas—such as a national grassland prairie, land utilization projects, purchase units, and research and experimental areas—with 0.8 million acres (<1%).[10] FS may combine units for administrative purposes, and each is administered by a forest supervisor. The NFS units are arranged into nine administrative regions, each headed by a regional forester. The nine regional foresters report to the NFS deputy chief, who reports to the chief of the Forest Service. The chief has traditionally been a career employee of the agency. The chief reports to the Secretary of Agriculture through the Under Secretary for Natural Resources and Environment.

The NFS regions are often referred to by number rather than by name. **Table 1** identifies the number, states encompassed, and acreage for each of the regions. NFS lands are concentrated in the seven western FS regions (see **Figure 1**). *Inholdings*, shown in **Table 1**, are lands (primarily private) within the designated boundaries of the national forests (and other NFS units) that are not administered by the FS. Inholdings sometimes pose difficulties for FS land management, because the agency does not regulate their development and use, which may be incompatible with desired uses of the federal lands, and constraints on access across inholdings may limit access to some federal lands. Many private landowners, however, object to the idea of possible federal restrictions on the use of their lands and especially to unfettered public access across their lands.

[5] The Transfer Act, Act of February 1, 1905 (P.L. 58-33, 16 U.S.C. §§472, 554).

[6] Act of March 4, 1907 (P.L. 59-242, 16 U.S.C. §499).

[7] Act of March 4, 1907 (P.L. 59-242, 16 U.S.C. §499). The act limited the presidential authority to establish national forests in Colorado, Idaho, Montana, Oregon, Washington, and Wyoming. Roosevelt proclaimed additional reserves after it was enacted but before he signed it into law.

[8] Act of March 1, 1911 (P.L. 61-435, 16 U.S.C. §480).

[9] Federal Land Policy and Management Act of 1976, Act of October 21, 1976 (P.L. 94-579, 43 U.S.C. §§1701 et seq.).

[10] FS, *Land Areas Report*, 2018.

Table 1. The National Forest System

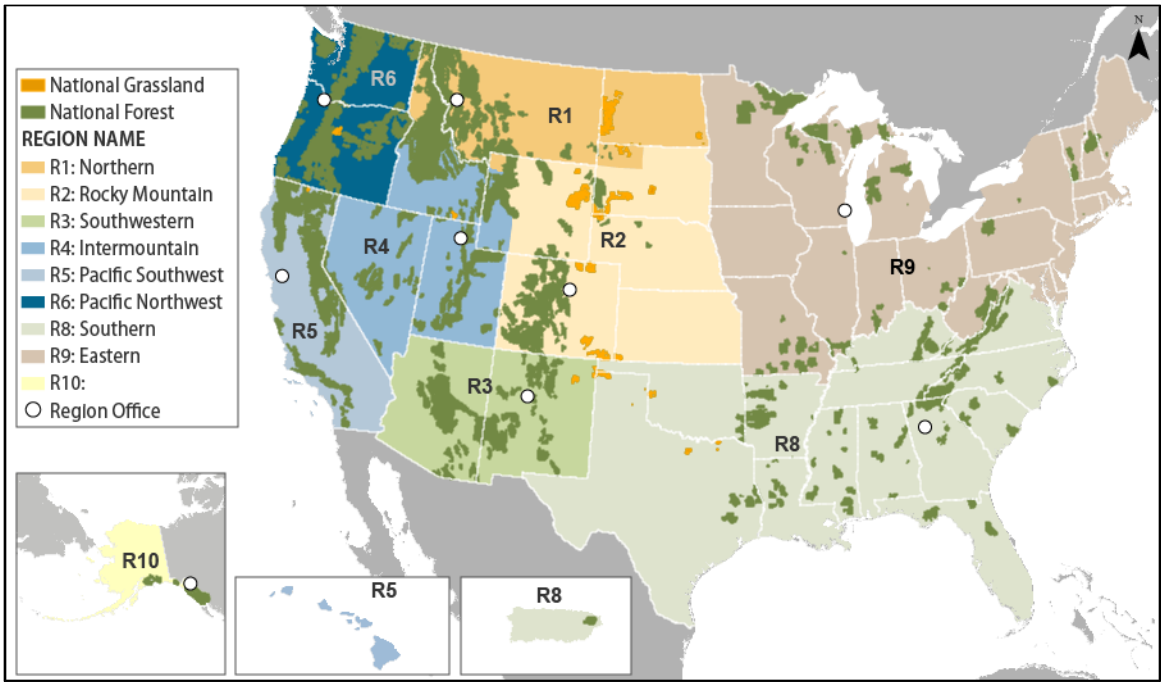
Forest Service Region		States/Territories Containing NFS Lands	National Forest System Acreage[a]		
Region Name	**No.**	**States**	**Federal**	**Inholdings**	**Total**
Northern	1	ID, MT, ND, SD	25,555,164	2,586,950	28,142,114
Rocky Mountain	2	CO, KS, NE, SD, WY	22,055,096	2,550,999	24,606,095
Southwestern	3	AZ, NM	20,530,154	1,660,545	22,190,699
Intermountain	4	ID, NV, UT, WY	31,896,356	2,348,250	34,244,606
Pacific Southwest	5	CA, HI	20,203,102	3,440,879	23,643,981
Pacific Northwest	6	OR, WA	24,967,936	3,013,215	27,988,151
Southern	8	AL, AR, FL, GA, KY, LA, MS, NC, OK, PR, SC, TN, TX, VA	13,419,773	12,079,988	25,499,761
Eastern	9	IL, IN, ME, MI, MN, MO, NH, NY, OH, PA, VT, WI, WV	12,174,918	10,001,182	22,176,100
Alaska	10	AK	22,138,560	1,791,001	23,929,561
National Forest System			192,948,059	39,473,009	232,421,068

Source: U.S. Department of Agriculture, U.S. Forest Service, *Land Areas Report (LAR)—as of September 30, 2018*, Tables 1 and 2, at http://www.fs.fed.us/land/staff/lar/LAR2018/lar2018index.html.

Notes: In 1966, Region 7 (the Lake States Region) was merged with Region 9 (the Northeastern Region) to form the current Region 9 (Eastern Region). Although this merger left 9 regions, the numbering sequence skips 7 and ends with 10, as shown in the table. Idaho, Wyoming, and South Dakota are each split into two regions. Regions include states that do not contain NFS lands.

a. *Federal* is federally owned land managed by the FS. *Inholdings* are private and other government lands within NFS boundaries that are not administered or regulated by the FS.

Figure 1. Map of the National Forest System



Source: Prepared by CRS from data available from FS Geodata Clearinghouse, at http://data.fs.usda.gov/geodata/.

Notes: Figures are presented in multiple scales.

Management of the National Forest System

Overview and Land Management Planning

The management goals for the national forests were articulated in Section 1 of the Multiple-Use Sustained-Yield Act of 1960,[11] which states:

> It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of this Act are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in the Act of June 4, 1897.... The establishment and maintenance of areas as wilderness are consistent with the purposes and provisions of this Act.

The act directs management of the lands and resources of the national forests to be in the combination of uses that best meets the needs of the American people. Management of the resources is to be coordinated for *multiple use*—considering the relative values of the various resources but not necessarily maximizing dollar returns nor requiring that any one particular area be managed for all or even most uses. The act also calls for *sustained yield*—a high level of resource outputs maintained in perpetuity but without impairing the productivity of the land.

[11] Act of June 12, 1960, P.L. 86-517, 16 U.S.C. §§528-531. Other laws govern the management of some of the other NFS units. For example, the national grasslands are managed pursuant to the provisions in the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. §§1010-1012).

Other statutes that apply to all federal agencies or actions—such as the Administrative Procedure Act (APA),[12] National Environmental Policy Act of 1969 (NEPA),[13] and the Endangered Species Act of 1973 (ESA)[14]—as well as many other FS-specific statutes, also apply.

FS planning and management are guided primarily by the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) and the National Forest Management Act of 1976 (NFMA).[15] Together, these laws encourage foresight in the use of the nation's forest resources and establish a long-range planning process for the management of the NFS. RPA assessments are published approximately every 10 years, and the assessments report the status and trends of the renewable resources on all forests and rangelands in the United States.[16]

Planning Regulations

NFMA requires that the FS prepare a comprehensive land and resource management plan for each NFS unit, often called a "forest plan."[17] Forest plans guide management of the plan area by identifying desired resource conditions on the ground and specifying objectives, standards, and guidelines for NFS activities and uses. Plans are to be revised at least every 15 years to address changing conditions, management goals, and public use.[18] The plans must use an interdisciplinary approach, including economic analysis and the identification of costs and benefits of all resource uses. The plans must also be developed and revised with input from the public.

Regulations (often called the planning rules) to establish the procedures to develop, amend, and revise forest plans were issued in 1979 and then revised in 1982, 2000, 2005, 2008, and 2012.[19] The Clinton Administration's 2000 regulations (*2000 planning rule*) would have increased emphasis on ecological sustainability during the forest planning process.[20] The George W. Bush Administration delayed implementation of the Clinton regulations three times out of concerns about implementation and the emphasis on biological sustainability, and then replaced them before they went into effect. The Bush Administration promulgated final rules in 2005 (*2005 planning rule*) to balance ecological sustainability with economic and social considerations.[21] The

[12] P.L. 79-404, 5 U.S.C. §§500 et seq.

[13] P.L. 91-190, 42 U.S.C. §§4321-4347. For more information on the National Environmental Policy Act, see CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by Linda Luther, and CRS Report R45696, *Forest Management Provisions Enacted in the 115th Congress*, by Katie Hoover et al., pp. 3-4.

[14] P.L. 93-205, 16 U.S.C. §§1531-1544. For more information on the Endangered Species Act, see CRS Report RL31654, *The Endangered Species Act: A Primer*, by Pervaze A. Sheikh.

[15] The Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA): P.L. 93-378, 16 U.S.C. §§1600 et seq. The National Forest Management Act of 1976 (NFMA): P.L. 94-588; 16 U.S.C. §1601 et al.

[16] The following is the most recent publication—as of the date of this report—associated with the decennial RPA assessments, and includes data on a variety of forest resource statistics. Sonja Oswalt, W. Brad Smith, and Patrick Miles, et al., *Forest Resources of the United States, 2017: A Technical Document Supporting the Forest Service Update of the 2020 RPA Assessment*. USDA, FS, GTR-WO-97, 2019, at https://www.fs.usda.gov/treesearch/pubs/57903.

[17] 16 U.S.C. §1604.

[18] 16 U.S.C. §1604(f)(5)(A). Annual appropriations laws have included a provision specifying that the Secretary of Agriculture is not considered to be in violation of the requirements of RPA/NFMA solely because a forest plan has not been revised within 15 years, as long as the Secretary is acting in good faith to update such plans. See, for example, §407 of Title IV of P.L. 116-6, the Consolidated Appropriations Act, FY2019.

[19] For more information on the history of the planning regulations as well as the status of the current rule, see https://www.fs.usda.gov/planningrule.

[20] 65 *Federal Register* 67514 (November 9, 2000).

[21] 70 *Federal Register* 1022 (January 5, 2005).

2005 planning rule would have also exempted forest plans from NEPA and ESA requirements. Interests successfully challenged the 2005 planning rule, arguing that the new rules reduced environmental protection without adequate public comment and ESA consideration.[22] The Bush Administration reissued the 2005 rule as a proposed rule to provide for the court-ordered public comment and issued new final rules in 2008 (*2008 planning rule*).[23] The court also invalidated the 2008 planning rule for violating NEPA and ESA,[24] and in 2009 the FS reverted to using 1982 procedures. The Obama Administration promulgated final planning regulations in 2012 (*2012 planning rule*).[25] The 2012 planning rule establishes an adaptive, three-phase planning framework to emphasize ecological sustainability, landscape-scale restoration, and science-based decisions informed by public values. Plans are to also account for the potential impacts of climate change.

The FS has developed 130 plans to guide the management of 110 administrative units of the NFS (some plans cover multiple NFS units). FS reports that approximately 85 plans require revision (meaning they are older than 10 years (31) or 15 years (54)).[26] Thirty plans are under revision in FY2019.[27] Of those under revision, four are using the 1982 procedures to conduct the revisions; the others are using the procedures established in the 2012 planning rule.

National Forest System Uses

As noted above, NFS lands are administered for sustained yields of multiple uses, including fish and wildlife purposes, outdoor recreation, mineral and energy development, range (livestock grazing), timber, and watershed management. Wilderness was added as a use in 1964.[28] The various uses of NFS lands are to be balanced in the "combination that will best meet the needs of the American people" with the "harmonious and coordinated management of the various resources, each with the other ... in perpetuity of a high-level annual or regular periodic output ... without impairment of the productivity of the land."[29] These uses are discussed in more detail in the following sections.

Although revenue generation is not a stated statutory purpose of the NFS, FS is authorized to charge fees for many of the uses and services it provides. This revenue may be used to offset agency costs for specific activities, shared with the communities containing the NFS land, or deposited into the General Treasury, depending on the use, location, and varying statutory requirements.[30] In FY2018, the FS generated a total of $283.4 million.[31] **Table 2** lists the revenue generated by type for FY2014-FY2018. The single largest source of revenue for the FS over

[22] *Citizens for Better Forestry v. USDA*, 481 F.Supp. 2d 1059 (N.D.Cal., 2007).

[23] 73 *Federal Register* 21467 (April 21, 2008).

[24] *Citizens for Better Forestry v. USDA*, 632 F.Supp. 2d 968 (N.D.Cal., 2009).

[25] 77 *Federal Register* 21260 (April 9, 2012). In 2016, FS amended the rule to clarify the plan amendment process and procedures, among other technical amendments (*81 Federal Register* 90723). The regulations are codified at 36 C.F.R. part 219.

[26] Data as of March 14, 2018, and from "Status of Plans" document posted on https://www.fs.fed.us/emc/nfma/index.htm (retrieved August 12, 2019).

[27] FS, *FY2020 Budget Justification*, p. 67, available from https://www.fs.fed.us/about-agency/budget-performance.

[28] The Wilderness Act of 1964, P.L. 88-577, §4; 16 U.S.C. §529.

[29] 16 U.S.C. §531.

[30] For information on the requirements to share certain revenues with the states and counties containing NFS lands, see CRS Report R41303, *Reauthorizing the Secure Rural Schools and Community Self-Determination Act of 2000*, by Katie Hoover.

[31] FS, *All Service Receipts: Receipts Summary Report, FY2018*, ASR-04.

FY2010-FY2014 was the sale of timber. The next largest source of revenue was recreation, followed by fees associated with the use or occupancy of NFS lands.

Table 2. FS Revenue, FY2014-FY2018

(nominal dollars in millions)

	FY2014	FY2015	FY2016	FY2017	FY2018
Timber	130.8	143.6	144.4	157.8	160.2
Recreation	72.0	70.7	79.6	83.0	84.7
Land Use	32.0	31.5	28.7	29.0	32.4
Grazing	5.1	6.6	8.5	7.7	5.8
Minerals	2.2	2.0	2.0	1.9	0.3
Total	**$242.2**	**$254.5**	**$263.2**	**$279.4**	**$283.4**

Source: U.S. Department of Agriculture, Forest Service, *All Service Receipts (ASR), Final Receipts Summary Report (ASR-04),* available from https://www.fs.usda.gov/main/pts/securepayments/projectedpayments.

Notes: Data are provided in nominal dollars. *Timber* revenue is amounts collected under several different authorities for the sale of timber and certain other forest products and also reflects deposits or credits to several different special funds or accounts. *Recreation* revenue is amounts collected for all types of recreation, including user fees collected under the Federal Lands Recreation Enhancement Act (P.L. 108-447, as amended). *Land use* revenue is amounts collected for the use or occupancy of NFS lands, such as for communication or energy transmission lines, but excludes collections associated with minerals or recreational uses. *Grazing* revenue is amounts collected for grazing fees in the NFS, with both the eastern and western grazing fees combined. *Minerals* revenue is amounts collected from the sale of minerals (including quartz crystals) and permit fees. It includes mineral lease and permit fees collected by DOI on acquired lands having NFS status but does not include any mineral revenue derived from NFS land that was established from the public domain.

Fish and Wildlife Habitat

The NFS contains important fish and wildlife habitats as well as botanically significant resources, which contribute ecological, recreational, economic, and cultural benefits to the nation. These resources include fishable streams, lakes, wetlands, and wildlife—such as elk, bighorn sheep, and wild turkey—which are enjoyed by a variety of recreational users. In addition, the NFS contains over 400 species of plants and animals listed as threatened or endangered and 3,500 that have been designated as sensitive and require special management.

Outdoor Recreation

FS reports that outdoor recreation is the "single greatest use of the national forests," with more than 150 million annual recreational visits. Recreational activities on NFS lands include camping, fishing, hiking, horseback riding, hunting, skiing, snowboarding, wildlife viewing, and more.[32] Private companies also provide additional recreational opportunities on the NFS through recreation special use authorizations for downhill ski resorts, campgrounds, resorts, marinas, recreational events, outfitters, and guides.

Some recreation uses, such as the use of off-highway vehicles and snowmobiles in the NFS, have generated controversy.[33] In 2004, the FS chief identified *unmanaged recreation*—"increasing use

[32] FS, *FY2020 Budget Justification*, p. 58.

[33] See CRS Report R42920, *Motorized Recreation on Bureau of Land Management and Forest Service Lands*, by Carol Hardy Vincent and Katie Hoover.

of the national forests for outdoor activities ... including the use of off-highway vehicles"—as one of the four major threats to the ecological integrity of NFS lands.[34] FS published regulations in 2005 regarding the use of off-highway vehicles as part of an effort to address roads and trails management generally on NFS lands (known as *travel management*) and amended its internal policy in 2008.[35] The agency conducted a travel management planning process for each NFS unit and designated which roads and trails were available for motorized use.[36] These *motor vehicle use maps* are generally updated annually.[37]

Recreation on NFS lands also generates significant revenue for the FS. In FY2018, recreation receipts totaled $84.7 million (30% of the total revenue generated).[38] In 2004, the Federal Lands Recreation Enhancement Act established a recreation fee program for the FS (and the other federal land management agencies).[39] The program was set to expire in 2014 but has been reauthorized several times, and was most recently extended through September 30, 2020.[40] The act authorizes different kinds of fees, outlines criteria for establishing fees, prohibits certain fees, and allows the FS to use collections without further appropriation. While Congress sought to make the actual users pay fees, some users object, arguing that the fees amount to paying twice (once through taxation) to support the agency. Congress may consider allowing the recreation fee program to sunset or may consider extending the program again, with or without modifications.[41]

Mineral and Energy Development

Much of the NFS is open to mineral and energy resource exploration and development. Oil, natural gas, and coal exploration and production is governed by the Mineral Lands Leasing Act of 1920, which also requires the BLM to manage the subsurface rights to virtually all federal lands, including NFS lands.[42] Approximately 5.3 million acres underlying NFS lands are currently leased for oil, gas, coal, and geothermal operations.[43] NFS lands contain an estimated 4,000 federal oil and gas wells and approximately 75,000 mining claims. Receipts and royalties generated for energy and mineral activities are collected by the Office of Natural Resources Revenue in the Department of the Interior and are distributed for a variety of purposes.[44]

Renewable energy projects—such as solar and wind projects—are also allowed on NFS lands, generally through a special use authorization (SUA, discussed in the "Other Uses" section). FS

[34] FS, "Four Threats," updated October 30, 2006, at http://www.fs.fed.us/projects/four-threats/.

[35] 70 *Federal Register* 68264, November 9, 2005, and 73 *Federal Register* 74689, December 9, 2008. The regulations are available at 36 C.F.R. Part 212.

[36] For more information, see https://www.fs.fed.us/recreation/programs/ohv/.

[37] A motor vehicle use map is generally available in the "maps and publications" section of the website for each NFS unit.

[38] FS, *All Service Receipts: Receipts Summary Report, FY2013*, ASR-04.

[39] P.L. 108-447.

[40] P.L. 116-6 extended the program to October 1, 2020. P.L. 113-235.

[41] For further information on the Federal Lands Recreation Enhancement Act, see CRS In Focus IF10151, *Federal Lands Recreation Enhancement Act: Overview and Issues*, by Carol Hardy Vincent, and CRS Report RL33730, *Recreation Fees Under the Federal Lands Recreation Enhancement Act*, by Carol Hardy Vincent.

[42] 30 U.S.C. §181 et seq. For more information, see CRS In Focus IF10127, *Energy and Mineral Development on Federal Land*, by Marc Humphries.

[43] Forest Service, *FY2020 Budget Justification*, p. 73, at http://www.fs.fed.us/about-agency/budget-performance.

[44] For more information on energy and mineral revenue, see CRS Report R43891, *Mineral Royalties on Federal Lands: Issues for Congress*, by Marc Humphries.

has not approved any solar projects to date. FS approved a utility-scale wind power facility SUA in 2012, which began operation in 2017.[45]

Range

Range management includes the use of NFS rangelands for livestock grazing as well as for the management of wild horses and burros, which are protected under the Wild Free-Roaming Horses and Burros Act of 1971.[46] Management of wild horses and burros on NFS (and BLM) lands has generated controversy, and issues for Congress have included concerns regarding management of their population, among others. FS estimates there were approximately 9,300 wild horses and burros on NFS lands in 2018, approximately four times the appropriate management level.[47]

Of the 93 million acres of NFS lands identified as available for such use during the planning process, approximately 74 million acres were under permit for livestock grazing in FY2017.[48] Permits generally cover a 10-year period and may be renewed automatically while the agency processes a backlog of grazing allotments and permits needing evaluation.[49] Fees for grazing on federal lands—FS and BLM—are generally charged under a formula established by law in 1978.[50] For 2019, the federal grazing fee is $1.35 per head month, the minimum fee allowed under the law.[51]

Timber[52]

One of the first uses of the early forest reserves was to "furnish a continuous supply of timber."[53] The first chief of the FS, Gifford Pinchot, initially believed the agency could eventually become self-supporting through the production of timber, although he eventually abandoned the idea.[54] FS timber sales and revenue generation were negligible until the 1950s, when the post-World War II housing boom, combined with declining competition from private timber sales, led to increasing NFS timber sales (see **Figure 2**). For many years after, the FS was a major provider of timber for the wood products industry, generally selling between 10 billion and 12 billion board feet of

[45] See, for example, "Deerfield Wind Begins Operation," *Vermont Business Magazine*, December 2017, https://vermontbiz.com/news/2017/december/29/deerfield-wind-begins-operation.

[46] 16 U.S.C. §§1331 et seq. For more information on wild horses and burros, see CRS In Focus IF11060, *Wild Horse and Burro Management: Overview of Costs*, by Carol Hardy Vincent.

[47] This estimate was provided to CRS by the FS on December 17, 2018.

[48] These figures were provided to CRS by the FS on November 30, 2018. For discussion on grazing trends on NFS lands, see CRS Report R44932, *Statistics on Livestock Grazing on Federal Lands: FY2002 to FY2016*, by Carol Hardy Vincent.

[49] The authority to automatically renew leases is provided in multiple laws. They include P.L. 113-291, §3023 and P.L. 108-108, §325, as extended most recently through FY2019 by P.L. 116-6, §420.

[50] Public Rangelands Improvement Act of 1978, P.L. 95-514, 43 U.S.C. §§1901, 1905. The formula has been continued indefinitely through an executive order issued by President Reagan in 1986 (Executive Order 12548, 51 *Federal Register* 5985, February 19, 1986).

[51] The 2019 fee took effect March 1, 2019, and will be in effect through February 29, 2020. Head month is defined as one month's use and occupancy of the range by one animal, except for sheep and goats (36 C.F.R. §222.50). For more information on fees, see CRS Report RS21232, *Grazing Fees: Overview and Issues*, by Carol Hardy Vincent.

[52] For more information on timber harvesting on federal lands, see CRS Report R45688, *Timber Harvesting on Federal Lands*, by Anne A. Riddle.

[53] Organic Administration Act, Act of June 4, 1897, 16 U.S.C. 473.

[54] Harold K. Steen, *The U.S. Forest Service: A History* (University of Washington Press, 1976), p. 91.

timber annually (about 20%-25% of total U.S. wood supply).[55] Since the 1990s, FS timber production has decreased, totaling around 2 billion board feet annually since FY1999.[56] In 2011, NFS supplied 2% of U.S. wood and paper products.[57] The decline is attributable to a multitude of factors, including (but not limited to) changing legislative directives and related forest management policies and practices—such as increased planning and procedural requirements—as well as changing market dynamics for wood products, public preferences, and litigation.

For the last 15 years, harvest volume has remained relatively constant around 2.0 billion board feet harvested annually, with a slight upward trend over the last few years. Starting in FY2005, the price of lumber dropped significantly, mostly in response to instability in the U.S. housing market. This drop contributed to the value of FS harvests declining annually from FY2005 through FY2010, although the value has been modestly increasing since then. In FY2018, approximately 2.8 billion board feet were harvested from FS lands, at a value of approximately $188.8 million.[58]

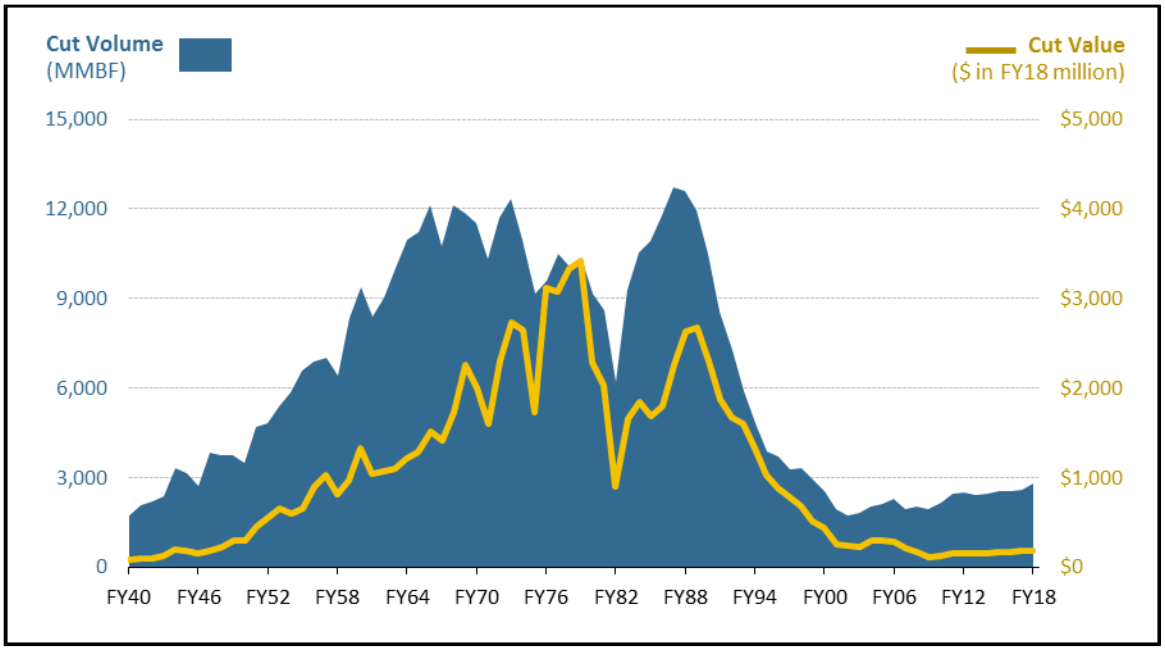
[55] A board foot is volume measurement, representing a unit of wood measuring 12 inches by 12 inches by 1 inch. Harvest volume is also sometimes reported as cubic feet. During the period when FS was harvesting 10 to 12 billion board feet annually, the revenue was less than the total cost of NFS management.

[56] The decrease in timber production, and revenue generation, also led to a decrease in the revenue-sharing payments made to counties containing NFS land. Congress enacted an alternative payment system in response. For more information, see CRS Report R41303, *Reauthorizing the Secure Rural Schools and Community Self-Determination Act of 2000*, by Katie Hoover.

[57] Sonja Oswalt, W. Brad Smith, and Patrick Miles, et al., *Forest Resources of the United States, 2012: A Technical Document Supporting the Forest Service Update of the 2010 RPA Assessment.* Forest Service (FS), U.S. Department of Agriculture (USDA), GTR-WO-91, 2014.

[58] Data reflects the cut volume and value (FS, *Forest Cut and Sold Reports*, at http://www.fs.fed.us/forestmanagement/products/sold-harvest/cut-sold.shtml). Cut value refers to the appraised value of the timber after it is harvested. The cut value reported in any given fiscal year may not be reflected in the collection of timber revenue for that same fiscal year for various reasons (for example, because revenue may be collected at various times throughout a timber sale contract, which may be executed over several years).

Figure 2. FS Harvest Volume and Value, FY1940-FY2018



Source: CRS. FY1977-FY2018 data: Forest Service, *Forest Products Cut and Sold Reports,* https://www.fs.fed.us/forestmanagement/products/cut-sold/index.shtml. FY1940-FY1976 data: Forest Service Legislative Affairs Office.

Notes: MMBF stands for million board feet. 1,000 million board feet equals 1 billion board feet. A board foot is a unit of wood measuring 12 inches by 12 inches by 1 inch.

The FS is increasingly using timber harvests as a tool to achieve various land and resource management objectives or in the context of larger restoration objectives—such as enhancing ecosystem or watershed conditions—in addition to timber production. For example, the FS may enter into stewardship contracts: contracts for restoration activities (e.g., thinning to reduce potential wildfire fuels) that include the sale of commercial timber to offset some of the stewardship costs. [59] The FS may also harvest trees damaged or killed in fires or other disturbance events, called salvage harvesting. Salvage harvesting may capture some of the economic value of the federal resources and generate revenue to fund other restoration activities, and in some cases may facilitate forest restoration and recovery.

Watersheds

Protecting watershed health was one of the original purposes of the national forests. This includes the management of surface and groundwater resources as well as water uses and rights on NFS lands. Nearly one-fifth of the nation's water originates on NFS lands.[60] In addition, watersheds support ecological services such as productive soils, biological diversity, and fish and wildlife habitat, including spawning and rearing habitat for sport and commercial fish species. Watersheds also provide flood control benefits.

[59] Stewardship contracting was first authorized on a temporary basis in 1999, extended several times, and then permanently authorized by the Agricultural Act of 2014 (2014 farm bill, P.L. 113-79, Title VIII). Stewardship contracts may include sales of other forest products (such as Christmas trees). For more information, see CRS In Focus IF11179, *Stewardship End Result Contracting: Forest Service and Bureau of Land Management*, by Anne A. Riddle.

[60] FS, "Watershed, Fish, Wildlife, Air and Rare Plants," at http://www.fs.fed.us/biology/watershed/#focus.

The FS established the Watershed Condition Framework (WCF) in 2011 to assess, classify, and prioritize the conditions of the watersheds containing significant portions of NFS lands. The 115th Congress codified the WCF program in statute.[61] The initial assessment—completed in FY2011—classified conditions on approximately 15,000 watersheds based on 12 biophysical and ecological indicators indicating the degree of watershed functionality or integrity.[62] Watersheds that were in good condition were classified as *functioning* (52% in the initial 2011 assessment), watersheds in fair condition were classified as *functioning at risk* (43%), and watersheds in poor condition were classified as having *impaired function* (3%).[63] FS reports that, in FY2018, 53% of the watersheds were in functioning condition, 44% were functioning at risk, and 3% had impaired function.[64]

In FY2012, the FS began developing watershed restoration action plans to identify projects and activities to improve the condition of priority watersheds. Watershed restoration activities may include a range of forestry or land management practices, such as decommissioning roads, reforestation, or restoring or enhancing stream habitat, among others. Under the WCF, FS is expected to actively monitor and track progress on watershed condition improvements.

Wilderness and Other Special Land Designations

Congress has also provided management direction within the NFS by creating special designations for certain areas. Some of these designations—wilderness areas, wild and scenic rivers, and national trails—are part of larger management systems affecting several federal land management agencies.[65]

The NFS also includes several other types of land designations. The NFS contains many national game refuges and wildlife preserves, national recreation areas and scenic areas, national monuments, and other congressionally designated areas.[66] Resource development and use is generally more restricted in these specially designated areas than on general NFS lands, and specific guidance is typically provided with each designation.

Management to preserve or develop FS roadless areas (areas that have been reviewed for wilderness designation but have not been designated as wilderness by Congress) continues to be controversial. Questions persist over the extent to which FS should manage to protect the

[61] P.L. 115-334, Title VIII, §8405. The 115th Congress also established a water source protection program (§8404). For more information on these changes, see CRS Report R45696, *Forest Management Provisions Enacted in the 115th Congress*, by Katie Hoover et al., pp. 30-31.

[62] For more information on the classification process, see FS, *Watershed Condition Classification Technical Guide*, FS-978, 2011, available from https://www.fs.fed.us/naturalresources/watershed/condition_framework.shtml.

[63] FS, *FY2015 Budget Justification*, p. 5-5, at http://www.fs.fed.us/about-agency/budget-performance. For more information on the watershed condition framework, see Forest Service, *Watershed Condition Framework*, FS-977, 2011, https://www.fs.fed.us/sites/default/files/Watershed_Condition_Framework.pdf.

[64] Figures were provided by FS on August 20, 2019.

[65] For more information on wilderness, see CRS Report RL31447, *Wilderness: Overview, Management, and Statistics*, by Anne A. Riddle and Katie Hoover, and CRS Report R41610, *Wilderness: Issues and Legislation*, by Katie Hoover and Sandra L. Johnson. For more information on wild and scenic rivers, see CRS Report R45890, *Wild and Scenic Rivers: Designation, Management, and Funding*, by Anne A. Riddle and CRS Report R42614, *The National Wild and Scenic Rivers System: A Brief Overview*, by Sandra L. Johnson and Laura B. Comay. For more information on national trails, see CRS Report R43868, *The National Trails System: A Brief Overview*, by Mark K. DeSantis and Sandra L. Johnson. For more information on other federal land designations, see CRS Report R43429, *Federal Lands and Related Resources: Overview and Selected Issues for the 116th Congress*, coordinated by Katie Hoover.

[66] FS, *Land Areas Report*, 2018. For more information, see CRS Report R41285, *Congressionally Designated Special Management Areas in the National Forest System*, by Katie Hoover.

wilderness characteristics of the approximately 58.5 million acres of roadless areas by prohibiting or permitting certain uses to occur. In 2001, President Clinton proposed a new rule to prohibit most road construction and timber harvesting in these areas. President George W. Bush delayed implementation of the Clinton rule and proposed an alternative policy. Both were litigated; however, the Clinton roadless rule remains intact after the Supreme Court refused to review a lower court's decisions in 2012.[67] In 2018, the Forest Service initiated a rulemaking process to develop a new roadless rule specific to the national forests in the state of Alaska.[68]

Other Uses

NFS lands are also used for other purposes and services supporting national policies and federal land laws. These uses or activities may be permitted on NFS lands under various authorities, collectively referred to as *special use authorizations* (SUAs), as noted earlier. SUAs allow uses of NFS lands for various purposes, ranging from commercial filming to ski resort operation, among others. For example, the Secretary of Agriculture is authorized to issue a type of SUA called rights-of-way (ROW) for the use and occupancy of NFS lands.[69] The rights-of-way allow for the specific use of NFS lands for: various types of water infrastructure; infrastructure for the storage, transportation, or distribution of liquids, gases (with specified exceptions), and solid materials; electricity generation, transmission, and distribution infrastructure; communications systems infrastructure; roads, trails, highways, canals, tunnels and other means of transportation in general; and other "necessary" systems and facilities which are in the public interest.[70] The 115th Congress directed FS to initiate rulemaking regarding the SUA process for telecommunications sites and also addressed management of electricity transmission SUAs.[71]

Forest Health Conditions

Forest health generally refers to the ability of forest ecosystems to respond to disturbance events (e.g., wildfires, ice or wind storms, insect and disease infestations, timber harvests).[72] Forest ecosystems have inherent characteristics that enhance their capability to survive such events (resistance) or facilitate recovery after disturbance (resilience). Some ecosystems are adapted to specific disturbances occurring at regular intervals. For example, some forest ecosystems are adapted to relatively frequent (e.g., up to every 35 years) but low-intensity wildfires to burn surface fuels (e.g., needles, leaves), reduce competition, and return nutrients to the soil, among other benefits. Other forest ecosystems are adapted to infrequent but high intensity wildfires.

Degraded forest ecosystems, however, may be more susceptible to mortality in response to disturbances or may take longer to recover. Different disturbances may also interact and

[67] Wyoming v. Department of Agriculture, 133 S.Ct. 417 (2012).

[68] FS, "Roadless Area Conservation; National Forest System Lands in Alaska," 83 *Federal Register* 169, August 30, 2018.

[69] The Federal Land Policy and Management Act of 1976 (FLPMA, P.L. 94-579, Title V, 43 U.S.C. §§1761 et seq.) and the regulations are codified at 36 C.F.R. 251 Subpart B. For more information on FS ROWs and special use authorizations, see https://www.fs.fed.us/specialuses/.

[70] These purposes are summarized from 43 U.S.C. §1761(a).

[71] For information on the specific provisions, see CRS Report R45696, *Forest Management Provisions Enacted in the 115th Congress*, by Katie Hoover et al., pp. 32-36.

[72] Disturbance is defined as "any relatively discrete event in time that disrupts ecosystems, community, or population structure and changes resources, substrate availability, or the physical environment." Steward T.A. Pickett and P.S. White, *The Ecology of Natural Disturbance and Patch Dynamics* (Orlando: Academic Press, 1985). Disturbance events may be unplanned (e.g., precipitation events) or planned (e.g., harvest, prescribed fire).

exacerbate the effects of other events in a feedback loop. For example, a prolonged drought may impair a tree's resistance to an insect or disease infestation, or may make a tree more susceptible to damage during a wildfire. In addition, some research indicates that climate variability is reshaping forest landscapes by altering the frequency, intensity, and timing of disturbance events in ways that may exceed the resistance and resilience capacity of many forests.[73]

Insect, Disease, and Wildfire Risk

Many are concerned that degraded forest ecological conditions in the NFS are increasing the risk of insect or disease infestation or uncharacteristic wildfires, among other forest health concerns. Many have particular concerns regarding an accumulation of forest biomass resulting from a century of aggressive wildfire suppression and other land management practices.[74] This biomass—dead and dying trees, heavy undergrowth, and dense stands of small trees—is often referred to as *hazardous fuels*. Hazardous fuels can significantly affect wildfire behavior, and contribute to wildfires becoming more intense, severe, and difficult to contain. Dense stands of trees may also facilitate the transmission of insect and disease infestations.

Projects that remove or modify these fuels are called *treatments*, and are intended to reduce the risk of catastrophic wildfire and facilitate post-fire recovery. Treatments include removing small-diameter trees (called *thinning*) or the deliberate use of fire in specific areas within prescribed conditions (called *prescribed burning*) to reduce fuel loads. Treatments may have broader forest restoration benefits as well, such as improving watershed functioning and facilitating ecological resilience and resistance.

FS has identified around 52 million-58 million acres of NFS lands at high or very high fire risk or insect infestation and in need of treatments.[75] FS reports that it accomplishes around 2 million-6 million acres of treatments annually.[76] At that pace, it would take between 9 and 29 years to eliminate the backlog of treatment needs, which does not account for maintaining already treated areas to the desired resource conditions. Some estimate that hazardous fuels are accumulating three times faster than the rate of treatment.[77] To address these concerns, FS has proposed to increase the scale, scope, and implementation of forest management projects generally, and forest restoration treatments specifically.[78] In addition, FS has several authorities to partner with

[73] James M. Vose, David L. Peterson, and Toral Patel-Weynard, *Effects of Climate Variability and Change on Forest Ecosystems: a Comprehensive Science Synthesis for the U.S.*, Forest Service, PNW-GTR-870, Portland, OR, 2012, http://www.treesearch.fs.fed.us/pubs/42610.

[74] For a more detailed discussion on forest biomass and fuels, see CRS Report R40811, *Wildfire Fuels and Fuel Reduction*, by Katie Hoover.

[75] Range is an estimate based on several reported measures for lands in need of some type of forest restoration treatment. See for example, FS, *Toward Shared Stewardship Across Landscapes: An Outcome-Based Investment Strategy*, FS-118, 2018, https://www.fs.fed.us/sites/default/files/toward-shared-stewardship.pdf (hereinafter referred to as FS, *Shared Stewardship)*, reporting approximately 52 million acres at high to very high fire risk and/or above-normal levels of insect and disease mortality, see p. 11.

[76] Range is an estimate based on several reported measures for FS acres treated annually. See for example, in FS, *Shared Stewardship*, the authors estimate about 1.9 million acres of NFS lands are treated annually to reduce hazardous fuels (see p. 12) and also report that around 6 million acres of NFS were treated to reduce fire risk and improve forest conditions per year for FY2016 and FY2017 (see p. 23).

[77] USDA, Office of the Inspector General (OIG), *FS Wildland Fire Activities - Hazardous Fuels Reduction*, 08601-004-41, July 2016, hereinafter referred to as OIG, *FS Hazardous Fuels*.

[78] See, for example, FS, *Shared Stewardship.*

stakeholders in various ways, as elements of a "shared stewardship" approach to address land management concerns at a landscape-scale and across ownership boundaries.[79]

Issues

FS and others identify administrative process barriers as one of many factors impeding progress toward their forest restoration goals.[80] More specifically, some identify federal agency decisionmaking processes as preventing the agencies from implementing projects at their desired pace and scale, particularly related to implementation of the National Environmental Policy Act (NEPA) and opportunities for the public to challenge agency decisions administratively and judicially.[81] Others may point to FS-specific implementation issues related to NEPA as contributing to planning delays more than involvement from the public or administrative or judicial challenges.[82] Other stakeholders identify other administrative barriers—such as inadequate program funding levels and training—as preventing FS from implementing project planning requirements in a more efficient manner.

The 115th Congress enacted several provisions aimed to improve agency efficiencies by expanding the applicability of procedures intended to expedite the planning and review process for projects, such as hazardous fuel reduction and forest restoration projects.[83] For example, proponents of this approach contend that expanding the use of Healthy Forests Restoration Act (HFRA) authorities and allowing federal agencies to plan more projects over larger areas under NEPA Categorical Exclusions (CEs) would expedite project implementation and allow FS and BLM to achieve progress toward their restoration goals.[84] As such, in June 2019, FS announced proposed changes to its NEPA regulations—including the establishment of new CEs—to increase efficiency.[85] Some, however, contend that changes made to the FS decisionmaking processes—such as through the establishment of CEs—are changing the basic legal framework for federal forest management and making it increasingly difficult for citizens to participate or challenge

[79] FS, *Shared Stewardship*.

[80] See, for example, House Committee on Natural Resources, *Resilient Federal Forests Act of 2017*, House Report, 115th Cong., 1st sess., October 25, 2017, H.Rept. 115-370 (hereinafter referred to as H.Rept. 115-370), FS, *The Process Predicament: How Statutory, Regulatory, and Administrative Factors Affect National Forest Management*, 2002, https://www.fs.fed.us/projects/documents/Process-Predicament.pdf, and FS, "National Environmental Policy Act Compliance," 84 *Federal Register* 114, June 13, 2019.

[81] See, for example, U.S. Congress, House Committee on Natural Resources, Subcommittee on Oversight and Investigations, *Exploring Solutions to Reduce Risks of Catastrophic Wildfire and Improve Resiliency of National Forests*, Oversight hearing, 115th Cong., 1st sess., September 27, 2017, H.Hrg. 115-23 or S. Hrg. 115-112.

[82] See, for example, Audrey Bixler et al., *Administrative and Judicial Review of NEPA Decisions: Risk Factors and Risk Minimizing Strategies for the Forest Service*, University of Oregon Ecosystem Workforce Program, Working Paper Number 66, 2016 (hereinafter referred to as Bixler et al 2016); Michael J. Mortimer et al., "Environmental and Social Risks: Defensive NEPA in the U.S. Forest Service," *Journal of Forestry*, vol. 109, no. 1 (2011), pp. 27-33; or Marc J. Stern, "The meaning of the National Environmental Policy Act within the U.S. Forest Service," *Journal of Environmental Management*, vol. 91 (2010), pp. 1371-1379.

[83] For more discussion on these provisions, see CRS Report R45696, *Forest Management Provisions Enacted in the 115th Congress*, by Katie Hoover et al.

[84] P.L. 108-148, 16 U.S.C. §§6501 et seq. See, for example, H.Rept. 115-370, Dissenting Views.

[85] FS, "National Environmental Policy Act Compliance," 84 *Federal Register* 114, June 13, 2019.

government decisions.[86] In addition, some stakeholders contend that expanding the use of these authorities could result in environmental impacts that exacerbate forest health concerns.[87]

Discussion

Many forest health issues have been ongoing for decades. For example, concerns about deteriorating forest conditions and high fuel levels were raised after wildfires in Yellowstone National Park in 1988. In the 1990s, several reviews—including those by congressionally chartered commissions and the Government Accountability Office (GAO)—recommended that land management agencies create long-term strategies for addressing forest health and reducing hazardous fuels. In the 2000s, GAO and the USDA Office of the Inspector General (OIG), among others, raised concerns with FS's strategies for addressing forest health and implementation of the hazardous fuels reduction program. Some of these reports are listed below.

- In 1994, the congressionally chartered National Commission on Wildfire Disasters recommended federal land management agencies invest more in reducing hazardous fuels in high-risk ecosystems and observed that "the question is no longer if policy-makers will face disastrous wildfires and their enormous costs, but when."[88]
- In 1995, a FS study recommended the agency increase hazardous fuel treatments to up to 3 million acres per year by 2005.[89]
- In 1999, GAO recommended FS develop a strategy to identify long-term options for reducing fuels to address forest health issues and mitigate wildfire risk.[90]
- In 2002, GAO recommended FS—and the other land management agencies—improve processes for identifying lands, resources, and communities at high wildfire risk.[91]
- In 2006, the USDA OIG raised concerns with FS's hazardous fuels reduction program and recommended FS develop guidance and controls to identify, prioritize, implement, monitor, and report on hazardous fuels reduction projects and funding.[92]
- A 2016 OIG report assessed FS's progress toward implementing the recommendations from that 2006 report and found continued issues with FS prioritizing, tracking, and reporting of hazardous fuels reduction projects.[93]

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[86] See, for example, S.Hrg. 115-112 (e.g., letter submitted by Center for Biological Diversity); H.Rept. 115-370, Dissenting Views; or Martin Nie and Peter Metcalf, "National Forest Management: The Contested Use of Collaboration and Litigation," *Environmental Law Reporter*, vol. 46 (2016), pp. 10281-10298.

[87] See, for example, H.Rept. 115-370, Dissenting Views.

[88] The commission was established by the Wildfire Disaster Recovery Act of 1989 (P.L. 101-286) after the 1988 wildfires in Yellowstone. R. Neil Sampson, chair, *Report of the National Commission on Wildfire Disasters*, Washington, DC, 1994.

[89] FS, *Course to the Future: Positioning Fire and Aviation Management*, May 1995.

[90] U.S. Government Accountability Office (GAO), *Western National Forests: A Cohesive Strategy is Needed to Address Catastrophic Wildfire Threats*, RCED-99-65, April 2, 1999, https://www.gao.gov/products/RCED-99-65.

[91] GAO, *Severe Wildland Fires: Leadership and Accountability Needed to Reduce Risks to Communities and Resources*, GAO-02-259, January 31, 2002.

[92] USDA Office of Inspector General (OIG), *Implementation of the Healthy Forests Initiative*, 08601-6-AT, September 2006.

[93] OIG, *FS Hazardous Fuels.*

Concerns about FS project implementation also have been ongoing. For example, in 2001 Congress asked GAO to evaluate the extent to which administrative or judicial challenges impeded FS's implementation of fuel management projects. The report found that approximately 24% of the fuel reduction decisions signed in FY2001 and FY2002 were appealed.[94] A similar GAO analysis found that 20% of the fuel management projects identified for implementation in FY2006 through FY2008 were challenged through appeals or objections.[95] In addition, several academic studies examining FS NEPA implementation suggest that projects that are more complex—in terms of scale and scope—are more likely to be challenged.[96] These studies also found that other project characteristics (e.g., timber harvests, forest plans) and factors related to staffing, documentation, and implementation of the public involvement requirements affect the likelihood of project challenges.

HFRA, passed in 2003, included provisions intended to expedite implementation of hazardous fuels reduction projects. Despite these provisions, the extent of NFS areas in need of treatment has continued to increase, and FS continues to look for ways to increase the pace of project implementation. To some, this implies that the HFRA approach to streamline agency decisionmaking has not been successful. To others, it implies that the HFRA approach needs to be more broadly applied, as it was in legislation enacted during the 115th Congress.[97]

Appropriations

The FS receives both discretionary and mandatory appropriations. Although it is an agency within the USDA, the FS receives its discretionary appropriations through Title III of regular Interior, Environment, and Related Agencies appropriations bills.[98] Separately, annual mandatory appropriations are provided under existing authorizing statutes. Laws authorizing mandatory appropriations allow the FS to spend money without further action by Congress, and the budget authority for several of these mandatory spending accounts is dependent on revenue generated by activities in the NFS. In FY2019, the FS received $7.32 billion in total funding, of which $6.94

[94] The report identified a total of 818 signed decisions with fuel reductions as an activity. Of those 818, 194 decisions were appealed. Because more than one appeal may occur per decision, the total number of appeals was higher (285). GAO, *Forest Service: Information on Appeals and Litigation Involving Fuels Reduction Activities*, GAO-04-52, October, 2003, https://www.gao.gov/assets/250/240305.pdf. An earlier GAO report found that through July 2001, 20 (1%) of the 1,671 hazardous fuel reductions projects identified for implementation for FY2001 were challenged. GAO, *Forest Service: Appeals and Litigation of Fuel Reduction Projects*, GAO-01-1114R, August 31, 2001, https://www.gao.gov/products/GAO-01-1114R.

[95] The report found that from FY2006 through FY2008, FS issued 1,312 decisions involving fuel reduction activities that were subject to appeal or objections, and 266 of those decisions were challenged. An additional 103 decisions were not subject to appeal or objections. Of the total 1,312 decisions, 29 (2%) were litigated in court. Some of the differences between the report findings may be attributable to the lack of a uniform definition for "hazardous fuels reduction projects." GAO, *Forest Service: Information on Appeals, Objections, and Litigation Involving Fuel Reduction Activities, Fiscal Years 2006 through 2008*, GAO-10-337, March 4, 2010, https://www.gao.gov/products/GAO-10-337.

[96] For a review of 27 studies examining various aspects of FS NEPA implementation, see Bixler et al., 2016.

[97] For more information, see CRS Report R45696, *Forest Management Provisions Enacted in the 115th Congress*, by Katie Hoover et al.

[98] The FS has received additional discretionary monies through supplemental appropriations bills. In addition, Congress has used continuing appropriations resolutions to maintain funding for the agency when regular appropriations bills have not been enacted before the start of the fiscal year and, in some cases, to provide full-year funding. For more information, see CRS In Focus IF11169, *Forest Service: FY2019 Appropriations and FY2020 Request*, and CRS Report R44934, *Interior, Environment, and Related Agencies: Overview of FY2019 Appropriations*.

billion (95%) was discretionary funds and an estimated $377.4 million (5%) was mandatory funds.[99]

The NFS account, one of the FS's largest discretionary accounts, funds the management of the NFS.[100] Several mandatory accounts also fund NFS activities; however, this report focuses on discretionary appropriations. In FY2019, Congress appropriated $2.02 billion to the NFS discretionary account, which reflects $1.94 billion in regular appropriations plus an additional $85.0 million in emergency-designated supplemental appropriations.[101] On average over the last five fiscal years, the NFS account has received approximately 28% of total FS discretionary funding.

FS budget requests and Interior Appropriations Subcommittee documents typically allocate monies in each account among various subaccounts and, in some cases, among specific programs and activities. The FS further allocates its appropriations—at the account, subaccount, and program activity levels—among the nine FS regions, five research stations, two service centers and laboratories, and the national headquarters office in Washington, DC. Once the funds have been allocated to the regions and programs, the money is then further allocated to each NFS unit. This can make analyzing appropriations by region or by forest challenging.

The NFS account includes several subaccounts, programs, and activities, many of which reflect the different ways national forests are used. The NFS subaccounts are described below, in descending order of FY2019 budget authority (see **Table 3**).[102] The activities funded through each subaccount are listed, along with information on the FY2019 appropriation. For purposes of this report, *regular* appropriations refers to the appropriations provided in the Consolidated Appropriations Act, FY2019 (P.L. 116-6), and *supplemental* appropriations refers to any appropriations provided in the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20).

- **Hazardous Fuels** funds activities to remove, modify, or manipulate vegetation to reduce the likelihood of uncharacteristically intense wildland fire. Prior to FY2018, this program was funded through the Wildland Fire Management account. (FY2019: $467.5 million [$435.0 million regular plus $32.5 million supplemental], 23% of NFS).
- **Forest Products** funds activities to analyze, prepare, offer, award, and administer timber sales, stewardship contracts, and special forest products permits on NFS lands (FY2019: $407.3 million [$368.0 million regular plus $39.3 million supplemental], 20% of NFS).

[99] FS discretionary figures for FY2019 reflect $854.3 million in supplemental appropriations provided through the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20). Discretionary figures are from detailed funding tables prepared by the House Committee on Appropriations. Estimated mandatory figures were derived from the FS *FY2020 Budget Justification* and are subject to change.

[100] The other main FS discretionary accounts include Forest and Rangeland Research, State and Private Forestry, Capital Improvement and Maintenance, Land Acquisition, Wildland Fire Management, and several other relatively smaller accounts.

[101] The $1.94 billion was provided through the Consolidated Appropriations Act, 2019 (P.L. 116-6) and the $85.0 million was provided through the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20). The supplemental funds were designated as emergency spending. FY2019 funding was also provided through two continuing resolutions because P.L. 116-6 was not enacted until February 15, 2019, and there was a lapse in appropriations and partial government shutdown from December 22, 2018, through January 25, 2019.

[102] This list reflects the main subaccounts as of the FY2019 appropriation. Because Congress has restructured the NFS subaccounts in the past and may do so in the future, this list may or may not reflect the same subaccounts in future appropriations.

- **Recreation, Heritage, and Wilderness** funds activities related to the management of recreation opportunities on the NFS, administering recreation special use authorizations, supporting the protection of heritage resources, and protection of designated wilderness areas and wild and scenic rivers (FY2019: $260.0 million, 13% of NFS).
- **Land Management Planning, Assessment, and Monitoring** funds the development, maintenance, and revision of the forest plans (FY2019: $180.0 million, 9% of NFS).
- **Vegetation and Watershed Management** funds restoration-related management activities to improve forest and rangeland conditions, fish and wildlife habitat, water quality, quantity, and timing of stream flows, among others (FY2019: $188.6 million [$180.0 million regular plus $8.6 million supplemental], 10% of NFS).
- **Wildlife and Fish Habitat Management** funds activities to restore, recover, and maintain wildlife and fish—particularly rare animal and plant species—and their habitats on NFS lands (FY2019: $137.0 million, 7% of NFS).
- **Law Enforcement Operations** responds to emergencies, investigates illegal activities (such as illegal drug activities), and conducts crime prevention activities on NFS lands (FY2019: $131.0 million, 6% of NFS).
- **Landownership Management** provides funds for the basic land management or real estate activities necessary to support all NFS programs, such as granting special use authorizations for energy transmission corridors and processing land exchanges (FY2019: $79.5 million [$75.0 million regular plus $4.5 million supplemental], 4% of NFS).
- **Minerals and Geology Management** funds the administration of mineral operations on NFS lands, management and mitigation of abandoned mine lands, management of geologic resources and hazards, and management of environmental compliance and restoration related to mineral activities (FY2019: $75.0 million, 4% of NFS).
- **Grazing Management** funds the administration of livestock grazing use permits on the NFS and implementing environmental reviews of all FS grazing allotments as statutorily mandated (FY2019: 57.0 million, 3% of NFS).[103]
- **Collaborative Forest Landscape Restoration Program Fund (CFLRP)**, authorized in 2009,[104] funds 23 landscape-scale restoration projects for 10 years in priority landscapes (FY2019: $40.0 million, 2% of NFS).

[103] Rescissions Act of 1995, P.L. 104-14 §504.

[104] The Collaborative Forest Landscape Restoration Program was first authorized in FY2009, and was authorized to receive $40.0 million annually, subject to appropriations (P.L. 111-11, Title IV). The program was extended through FY2023 and the authorization was increased to $80.0 million annually, subject to appropriations (P.L. 115-334, Title VII, §8629).

Table 3. NFS Appropriations by Subaccount, FY2015-FY2019

(nominal dollars in millions)

NFS Subaccount	FY2015	FY2016	FY2017	FY2018[a]	FY2019[b]
Hazardous Fuels[c]	—	—	—	$430.0	$467.5
Forest Products	$339.1	$359.8	$367.8	$366.4	$407.3
Recreation, Heritage, and Wilderness	$261.7	$261.7	$264.6	$259.0	$260.0
Land Management Planning, Assessment, and Monitoring[d]	$188.8	$185.0	$182.9	$179.3	$180.0
Vegetation and Watershed Management	$184.7	$184.7	$184.7	$192.4	$188.6
Wildlife and Fish Habitat Management	$140.5	$140.5	$140.5	$137.6	$137.0
Law Enforcement Operations	$126.7	$126.7	$126.2	$129.2	$131.0
Minerals and Geology Management	$76.4	$76.4	$75.6	$74.2	$75.0
Landownership Management	$77.7	$77.7	$73.7	$79.5	$79.5
Grazing Management	$55.4	$56.9	$56.9	$56.9	$57.0
CFLRP	$40.0	$40.0	$40.0	$40.0	$40.0
Valles Caldera[e]	$3.4	—	—	—	—
Total, NFS	**$1,494.3**	**$1,509.4**	**$1,513.3**	**1,944.4**	**2,023.0**

Source: CRS. Data compiled from detailed funding tables prepared by the House Committee on Appropriations. Additional data on the funding allocation from the FY2018 and FY2019 supplemental appropriations was provided by the FS legislative affairs office.

Notes: Data are presented in nominal dollars and reflect any emergency or supplemental appropriations. CFLRP = Collaborative Forest Landscape Restoration Program.

a. Data includes $20.7 million in emergency-designated supplemental appropriations provided in the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 enacted as Division B of the Bipartisan Budget Act of 2018 (P.L. 115-123).

b. Data includes $85.0 million in emergency-designated supplemental appropriations provided in the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20).

c. Prior to FY2018, Hazardous Fuels funding was provided in FS's Wildland Fire Management account.

d. Prior to FY2017, this program was funded in two separate subaccounts. This table reports the total of those two subaccounts for FY2015 and FY2016.

e. Management of the Valles Caldera National Preserve was transferred to the National Park Service in FY2015.

Table 3 provides appropriations data for the NFS subaccounts over the last five fiscal years (FY2015 through FY2019). Over that time, appropriations to the NFS account averaged $1.61 billion annually. Appropriations increased 35% from FY2015 ($1.49 billion) to FY2019 ($2.02 billion). However, much of this increase is due to a structural change (discussed below) in the account as well as supplemental funding provided in both FY2018 and FY2019. Funding for most of the subaccounts was relatively constant over the five-year period, either increasing or decreasing by no more than 3%. An exception is the Forest Products subaccount, which increased by 20% over the five year period. A portion of that increase can be attributed to the $39.3 million in supplemental funding for Forest Products provided in FY2019.

The addition of the Hazardous Fuels subaccount, which previously had been funded in the FS's Wildland Fire Management account, was a significant structural change that was implemented in FY2018. **Table 4** provides more detail on the funding for Hazardous Fuels management across accounts over the FY2015-FY2019 time period; this activity received $404.8 million annually on

average over those five years, and also received supplemental funding in FY2019. Notwithstanding the additional FY2018 and FY2019 funds in the NFS account for the newly created Hazardous Fuels subaccount, appropriations to the NFS account averaged $1.51 billion annually and increased by 2% from FY2015 to FY2019. Further, much of that increase is attributed to the supplemental funding provided in FY2019 (see **Figure 3**).

Table 4. Appropriations for FS Hazardous Fuels Management, FY2015-FY2019

(dollars in millions)

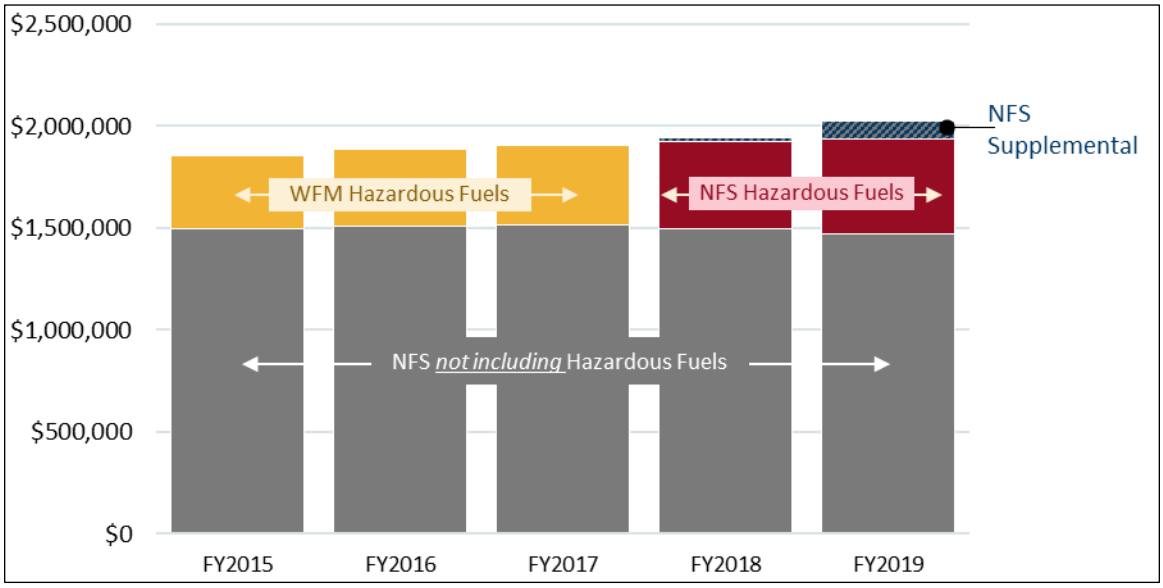
FS Account	FY2015	FY2016	FY2017	FY2018	FY2019[a]
Wildland Fire Management	$361.7	$375.0	$390.0	—	—
National Forest System	—	—	—	$430.0	$467.5

Source: CRS. Data compiled from detailed funding tables prepared by the House Committee on Appropriations. Additional data on the funding allocation from the FY2018 and FY2019 supplemental appropriations was provided by the FS legislative affairs office.

Notes: Data are presented in current dollars and reflect any emergency or supplemental appropriations.

a. Data includes $32.5 million in emergency-designated supplemental appropriations provided for Hazardous Fuels in the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20).

Figure 3. NFS and Hazardous Fuels Appropriations, FY2015-FY2019



Source: CRS.

Notes: Figure reflects appropriations to FS's National Forest System (NFS) account with detail on funding for one program, Hazardous Fuels. In FY2018 and FY2019, appropriations for Hazardous Fuels was provided in the NFS account. Prior to FY2018, funding for Hazardous Fuels was provided in FS's Wildland Fire Management (WFM) account, and is provided for comparative purposes. The figure also reflects supplemental appropriations provided to the NFS account in FY2018 and FY2019. In FY2019, the supplemental appropriations included some funding for Hazardous Fuels management.

Wildfire Funding

The FS receives appropriations to conduct wildfire management activities—preparedness, suppression, and site rehabilitation—on NFS lands through its Wildland Fire Management

(WFM) account.[105] In addition, FS receives funding for other wildfire-related purposes in its State and Private Forestry account. Combined, total funding for wildfire-related purposes has accounted for more than half of the FS discretionary appropriation over the past five years (FY2015-FY2019). For FY2019, FS received $4.09 billion for wildfire-related purposes, which included a supplemental appropriation of $720.0 million.

Congress has been concerned about the cost of WFM generally and suppression activities specifically. Suppression activities include all of the work associated with extinguishing or confining fires on NFS lands (and other federal or nonfederal lands under fire protection agreements with the FS). Suppression costs vary annually and are difficult to predict, and may be high even during years of relatively mild wildfire activity. Due to the emergency nature of fire control activities, FS is authorized to transfer money out of other discretionary accounts if suppression funds become depleted; this is often referred to as *fire borrowing*.[106] In response, Congress has typically enacted supplemental appropriations to repay the transferred funds and/or to replenish the agency's wildfire accounts.

Congress has expressed concern about the impact of fire borrowing on other NFS management activities and about the increasing portion of the FS budget going toward suppression funding. Wildfire spending—like all discretionary spending—is currently subject to procedural and budgetary controls.[107] In the past, Congress has sometimes—but not always—effectively waived some of these controls for certain wildfire spending. This situation prompted the 115th Congress to enact a new mechanism or process for suppression funding in the form of an adjustment to the discretionary spending limit; this mechanism is commonly referred to as the *wildfire funding fix*.[108] The wildfire funding fix starts in FY2020 and allows Congress to provide additional funding above a specified baseline level for suppression purposes that is effectively outside of the discretionary spending limits, up to a specified annual maximum. This wildfire adjustment is available annually from FY2020 through FY2027, although the statutory limits for discretionary spending are currently only in effect until FY2021.

Land Acquisition and Disposal[109]

As noted above, in 1891, the President was authorized to reserve lands from the public domain as forest reserves, but this authority was subsequently limited by Congress.[110] However, many

[105] Suppression activities were also previously funded through a separate account, the FLAME Wildfire Suppression Reserve Fund, but no appropriations were provided in FY2019. The FLAME Suppression Reserve Fund was established by the Federal Land Assistance, Management, and Enhancement Act of 2009 (P.L. 111-88, 43 U.S.C. §1748a). The authorization specifies that the account will be terminated after three consecutive years without an appropriation or obligation.

[106] Transfer authority is granted in the Interior, Environment, and Related Agencies annual appropriations bill, specifically in the administrative provisions for the FS. The accounts from which funds were transferred have historically been reimbursed in the following year's appropriations act.

[107] P.L. 112-25. For more information on discretionary spending limits, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

[108] P.L. 115-141, Division O, §102(a), 2 U.S.C. §901(b)(2)(f). For more information, see CRS Report R45696, *Forest Management Provisions Enacted in the 115th Congress*, by Katie Hoover et al., pp. 20-21, or CRS Report R45778, *Exceptions to the Budget Control Act's Discretionary Spending Limits*, by Megan S. Lynch.

[109] For more comprehensive information on the authority of the FS and the other federal land management agencies to acquire or dispose of lands, see CRS Report RL34273, *Federal Land Ownership: Acquisition and Disposal Authorities*, by Carol Hardy Vincent et al.

[110] 16 U.S.C. §471, now repealed.

presidential proclamations and executive orders have modified NFS boundaries and changed names, including establishing new national forests from existing NFS lands. National forests in the East generally were established between 1910 and 1951. Today, establishing a new national forest or significantly modifying the boundaries of an existing national forest requires an act of Congress.

The Secretary of Agriculture has numerous authorities to add lands to the NFS, through acquisitions or land exchanges. Often, though, the acquisitions are restricted to land within or contiguous to the proclaimed exterior boundaries of a national forest (e.g., inholdings). The first and broadest authority is in the Weeks Act of 1911, which allows the Secretary to purchase "such forested, cut-over, or denuded lands within the watersheds of navigable streams ... [for] the regulation of the flow of navigable streams or for the production of timber."[111]

Additional authorities are provided by the Bankhead-Jones Farm Tenant Act of 1937,[112] which authorized the Secretary to acquire submarginal lands and lands not suitable for cultivation. Under this authority, the FS acquired and established the 20 national grasslands and six land utilization projects that account for 2% of the NFS. Other laws authorize land acquisition for the NFS, typically in specific areas or for specific purposes. For example, the Secretary is authorized to acquire access corridors to NFS lands across nonfederal lands.[113]

The Secretary also has numerous authorities to convey NFS land out of federal ownership, all constrained in various ways and seldom used. Often, the authority requires the federal government to dispose of the land at fair market value, or in the case of land exchanges, requires that the lands be in the same state and of equal value (although value may be partially equalized by a cash payment). Some of the disposal authorities are designed to allow FS to convey land that is no longer needed for a federal purpose or that might be chiefly valuable for another purpose. For example, the Weeks Act authorizes the disposal of land better suited for other uses, such as agriculture or mining.[114] Some of the authorities specify particular circumstances where they can be used, such as the conveyance of NFS land to relieve encroachments due to erroneous surveys or for educational purposes.[115]

In addition to these standing authorities for FS to acquire or dispose of land, Congress has sometimes enacted laws directing FS to acquire or dispose of particular parcels where no standing authority exists and, in other cases, to direct or facilitate land transactions.

Issues for Congress

Congress considers many issues regarding NFS management. Current debates tend to focus more on particular issues that involve land and resource allocation and valuation, such as balancing increasing demands for commodity and non-commodity uses and services from the NFS. Simultaneously, public interest in how these resource allocation decisions are made and the lands are used has increased. NFS management and administration has thus become more complex and contentious. However, these controversies often derive from questions about the fundamental management principles of multiple use and sustained yield.

[111] Act of March 1, 1911, P.L. 61-435 as amended; 16 U.S.C. §§515 et seq.

[112] P.L. 75-210, 7 U.S.C. §1010.

[113] FLPMA, 43 U.S.C. §1715(a).

[114] 16 U.S.C. §516.

[115] 16 U.S.C. §§479a, 521.

The meaning and application of the dual concepts of multiple use and sustained yield have been debated since Congress first authorized the reservation of federal land.[116] The debates generally revolve around questions such as these:

- Is multiple use achieved through adjacent or sequential allowance of single resource uses or by simultaneous application of several uses?
- Is sustained yield management to provide a regular flow of products for human use or to assure the maintenance of the biological productivity of the forest resources?

When these management principles were established, Congress conferred considerable discretion on the FS to make those decisions. As concerns arose and persisted about the agency's interpretation of multiple use and sustained yield, Congress began to restrict that discretion by enacting legislation specifying that certain uses occur (or not occur) in specified areas.[117] However, Congress has not enacted legislation directly addressing the concepts of multiple use or sustained yield across the entire NFS.

Therefore, conflicts arise as users and land managers attempt to balance multiple uses and services and produce a sustained yield of resources from the NFS. Congress often considers legislation to prioritize various uses over others or to define or specify levels of production. For example, Congress has considered legislation to prioritize timber production over other uses in certain areas or to specify a certain annual output of timber production.[118]

There are several ongoing concerns regarding wildfire management, including the total federal costs of wildfire management, the strategies and resources used for wildfire management, and the impact of wildfire on both the quality of life and the economy of communities surrounding wildfire activity. Fire control expenditures continue to climb, affecting the implementation of other programs (and thus affecting NFS uses) through personnel and funds transferred to fire control. The wildfire funding fix provides a mechanism to fund control activities and potentially reduce the impact of fire transfers on the agency but does not address the factors driving cost increases. It is unclear when, whether, and how costs can be contained.

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[116] U.S. Congress, House Committee on Interior and Insular Affairs, *Multiple Use and Sustained Yield: Changing Philosophies for Federal Land Management*, the proceedings and summary of a workshop convened in March 1992, prepared by Congressional Research Service, 102nd Cong., 2nd sess., December 1992.

[117] For example, Congress has established several Special Management Areas in the NFS with specified uses. See CRS Report R41285, *Congressionally Designated Special Management Areas in the National Forest System*, by Katie Hoover.

[118] See for example, H.R. 2613 from the 115th Congress, which would have established forest revenue areas within the NFS and specified an annual timber harvest output level.

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