

# The Cooperative Sustained Yield Act

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For several years industrial and federal owners of forest land have attempted to obtain legislation that would permit the establishment of cooperative sustained yield units. These efforts reached fruition in the act of March 29, 1944, the main provisions of which are summarized herewith.

**A**N important milestone in the history of federal forest legislation is the enactment on March 29, 1944, of Public Law No. 273 by the 78th Congress. This legislation is generally known as the cooperative sustained yield act. It took eight years of study and effort to obtain this law, the final wording of which was worked out through conferences of industry and public agency representatives in 1943. The late Charles L. McNary of Oregon introduced in the Senate the Bill S. 250, which with minor revisions was passed by both houses of Congress and became Public Law 273.

## DESCRIPTION OF THE ACT

The stated purpose of the act is to promote sustained yield forest management in order thereby (1) to stabilize communities, forest industries, employment, and taxable forest wealth, (2) to assure continuous and ample supplies of forest products, and (3) to secure the benefit of forest influences on streamflow, erosion, climatic, and wildlife conditions. Since objectives (2) and (3) will be obtained except under extraordinary circumstances more or less automatically from sustained yield management, the provisions of the act are aimed primarily at the first listed objective.

The act is divided into ten sections. Except for the appropriation authorizations in Sec. 10, the provisions of the act grant equal authorities to the Secretaries of Agriculture and Interior in regard to lands under their respective jurisdictions. In the following summary the term secretary should be read as meaning either the Secretary of the Interior or Agriculture, depending on which department has jurisdiction.

## PUBLIC AND PRIVATE UNITS

Section 1 of the act authorizes the secretary to establish cooperative sustained yield units by formal declaration. Section 2 authorizes cooperative agreements with private owners of forest land within units established under Section 1,

for the purpose of providing community stability through coordinated management of the public and private forest land. Sales of government-owned timber, as it may be reached for cutting in its turn, under the management plan for the combined properties, at appraised value without competitive bidding, to such cooperating landowners, are authorized. To obtain the desired community stability, the cooperative agreement will limit the time, rate, and method of cutting from the land of the cooperating private landowner, including sales by the landowner to other parties (but not the price of such sales between private parties). Each cooperative agreement must be placed on record in the appropriate counties and the terms of the agreement shall run with the land throughout its life.

The emphasis is on developing community stability. Thoughtful reading of these two sections will result in the concept that the welfare of communities is predominant. The coordinated plan of management for the public and private cooperators' lands is the instrument by which sustained yield management is to be obtained. In Section 2 it is specifically stated that the provisions of such a management plan shall apply to the lands of the cooperating private owner but it necessarily follows that the time, rate, and method of cutting on the federal lands will similarly be controlled by the terms of the coordinated plan.

## FEDERAL UNITS

Section 3 authorizes the secretary to establish sustained yield units consisting of forest land under his jurisdiction when in his judgment the maintenance of a stable community or communities is primarily dependent upon the sale of timber from federal lands and such maintenance or permanence cannot be effectively obtained by sales made in the usual manner. The boundaries of the community or communities for whose benefit such sustained yield units are established may be fixed by the secretary. Authority to sell at appraised value without competitive bidding, subject to requirements fixed by him,

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to responsible purchasers within such community or communities may be exercised by the secretary if he deems it advisable. These provisions were not included in the earlier proposals for cooperative sustained yield legislation and hence this section merits detailed study by those who may not have kept in touch with the final legislative developments in this field. The Forest Service is adopting the term "federal units" for national forest lands which may be placed under the provisions of Section 3.

#### PUBLIC UNITS

Section 4 contains authority for cooperative agreements between the two secretaries or by either secretary with other public agencies, federal, state, or local, for the purpose of placing other publicly owned forest land in a coordinated plan of management. A limited number of states already have granted statutory authority to appropriate officials to enter into such cooperative sustained yield management agreements with federal agencies.

#### ADMINISTRATION

Section 5 relates to public notices and hearings and is uniformly applicable to any action taken under the first four sections of the act. Each landowner whose land is proposed to be included must be given advance notice by registered mail. Publication, in at least one newspaper of general circulation in the vicinity, of the pertinent details of any unit or agreement proposal is required. A public hearing must be held not sooner than 30 days after the first publication of this notice. For sales without competitive bidding in excess of \$500 in stumpage value from the federal lands advance notice must be given by weekly publication for four successive weeks of the pertinent details of the proposed sale. A public hearing in respect to the sale must be held if proper request is filed within 15 days after the first publication of the notice. If a hearing is held it must be preceded by at least 10 days by a published notice. It is also mandatory that the minutes of all hearings required by this section, together with the determination reached thereafter, be maintained as a public record for the life of any agreement entered into as a result of the hearing and the subsequent determination.

Section 6 authorizes the attorney general at the request of the secretary to institute proceed-

ings in equity before the proper U. S. district court against a landowner or purchaser from a landowner who fails to observe the terms of a cooperative agreement. This suit will be to require compliance with the terms of the cooperative agreement. Jurisdiction to hear and determine such proceedings is conferred on the district courts.

The last four sections of the act relate to minor details of definition, administration, and finances. Most Indian lands are included under the provisions of the act, provided consent of the Indians concerned is obtained. The secretary is authorized to issue rules and regulations to carry out the purposes of the act and to delegate his powers to officers of his department.

#### SUMMARY

In brief the act gives the secretary the authority (1) to establish cooperative sustained yield units, (2) to enter into cooperative agreements which are in effect coordinated management plans for public and private timber, (3) to establish sustained yield units composed entirely of federal lands, (4) to enter into cooperative agreements with other federal, state, or local public agencies, (5) to sell timber at appraised value without competitive bidding within cooperative units where a cooperative agreement is in effect and within federal sustained yield units. There is a check on administrative action by requirements of adequate public notice and hearings. The public interest is safeguarded by a requirement that the obligation to observe the provisions of cooperative agreements runs with the subject land for the life of the cooperative agreement and by authorization given the attorney general to enforce the provisions of the agreement through the federal courts. The administration of the act is made flexible by authorizing the secretary to issue rules and regulations and to delegate the powers granted him.

The act is in effect a sustained yield magna charta for the purpose of supporting and stabilizing forest-dependent communities. It has been skillfully drawn to meet a complex situation. It is a great trust on the part of Congress in the integrity and wisdom of the public and private foresters who will have the responsibility of developing units and agreements and thereafter administering them.