

**Forest Service Manual  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Manual 5400 – Landownership**

**Zero Code**

**Amendment:** 5400-2003-1

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**Duration:** This amendment is effective until superseded or removed.

**Superseded Directive:** 5400 Zero Code Contents, Amendment 5400-99-1, 01/12/1999; 5400 Zero Code, Amendment 5400-99-2, 01/12/1999; 5410, Amendment 5400-99-4

**Approved by:** Gloria Manning, Associate Deputy Chief, NFS

**Date approved:** January 13, 2003

**Responsible Staff:**

**Explanation of changes:** Following is an explanation of the changes throughout the directive by section.

**Posting Instructions:** Amendments are numbered consecutively by title and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this title was 5400-99-4 to FSM 5410 Contents.

The amendment makes minor revisions throughout the chapter to clarify and recode direction, revises outdated cross-references, and makes other editorial and formatting corrections.

**5402:** Adds the word "protection" in paragraph 1 to clarify the objective for an optimum landownership pattern to provide for resource protection in addition to resource uses.

**5403.1:** Revises the policy regarding landownership adjustment on National Forests as follows: Provides an exception for the 2-year grazing provision in paragraph 6. Adds references in paragraph 8 to the 25 percent fund receipts and payment in lieu of taxes. Revises paragraph 17 to direct that employees who appraise property shall not be assigned responsibility for processing an acquisition or exchange case; previously, such responsibility could be assigned to employees who appraised property valued at \$2,500 or less. In paragraph 18, revises the citation for the

Federal Land Exchange Facilitation Act of 1988. In paragraph 21, clarifies that land or interest in land acquired should include rights necessary to protect the public's interest, and should not be encumbered by reversionary interests or conditions that limit the rights of the United States to manage land for National Forest purposes.

**5404.12:** Moves most of the responsibilities for the Deputy Chief for the National Forest System previously set out in this section to the responsibilities of the Associate Deputy Chief for the National Forest System in FSM 5404.13, with the exception of the responsibility retained by the Deputy Chief for assisting the Chief in establishing national landownership.

**5404.13:** Adds to the responsibilities of the Associate Deputy Chief for the National Forest System most of those responsibilities formerly set out in FSM 5404.12 for the Deputy Chief, which include submitting to the Secretary for approval requests to divide into and designate as National Forest any lands of more than 3,000 acres acquired under or subject to the Weeks Act of March 1, 1911 (para. 2 of this section); approving the division into and designation as National Forest any lands of 3,000 acres or less acquired under or subject to the Weeks Act of March 1, 1911 (para. 3); and submitting to the Secretary recommendations regarding transfer to other Federal, State, or Territorial agencies those lands acquired under the Bankhead Jones-Farm Tenant Act (para. 4).

**5404.14:** Revises the introductory paragraph to provide that the Director of Lands, Washington Office, may delegate responsibilities to the Deputy Director and Assistant Director except where limitations on such delegations are noted. Reorganizes and revises the enumeration of paragraphs 1 - 14 setting out the responsibilities of the Director of Lands (previously set out in para. 1 - 10). Revises direction in paragraph 2c for exchange cases with Federal land value in excess of \$500,000, which must be submitted to Congress for oversight (para. 2 and 3). In paragraph 6, adds a reference to the National Environmental Policy Act. Adds responsibility in paragraph 13 for the Director of Lands, Washington Office, to review and make decisions on the release of appraisals or appraisal information for those decisions made at the Washington Office level.

**5404.16:** Adds a code for the responsibilities of the National Landownership Adjustment Team, which include the responsibility to review and concur: in land exchange cases \$500,000 or more in value (para. 1 and 2); in all sales, except Townsite Act and Small Tract Act cases, and for all land exchange cases less than \$500,000 in value that are of high public concern or complexity (para. 3); on the procedures in implementing legislated land exchanges and court-related exchanges on a case-by-case basis (para. 4 and 5); with all proposals to use categorical exclusion for exchanges (para. 6); and in all sales, except Townsite Act and Small Tracts Act cases, during the marketing strategy phase to ensure that the appropriate sales methods are employed and that they meet the intent of the enabling legislation (para. 7).

**5404.21:** Revises the enumeration of paragraphs in this section; adds to the responsibilities of the Regional Forester most of those responsibilities formerly set out at FSM 5404.22, for the Director of Lands, Regional Office; and provides for delegation of responsibilities in paragraphs 2 through 22 to the Regional Director or Lands or the Deputy Director and in paragraphs 15 through 21, under certain limitations, to Forest Supervisors. The Regional Forester may delegate authority to perform the required landownership adjustment duties to the Director or Deputy Director of Lands and to those Forest Supervisors who have the staff that have

demonstrated skills, knowledge, and training to perform the required landownership adjustment duties. Such delegations must be in writing. Adds direction in paragraphs 12 and 13 for the Regional Forester to ensure the Regional Appraiser directly supervises all Staff Appraisers and to ensure all appraisal staff who prepare summary or self-contained appraisal reports have full-time appraisal duties. Adds direction in paragraph 14 to issue letters of intent to nonprofit organizations outlining acquisition proposals in situations where there are appropriated funds. Adds direction in paragraph 21 to execute sale decision and case processing documents, and in paragraph 22 to approve marketing strategies, execute purchase and sale agreements, and consummate all sales of land or interest in land.

**5404.22:** Revises the enumeration of paragraphs and moves most of the responsibilities for the Director of Lands, Regional Office, previously set out in this section, to the Regional Forester's responsibilities set out in FSM 5404.21, with the exception of paragraph 1 regarding real estate management and paragraph 2 (formerly para. 6) regarding investigation of title claims. Adds direction in paragraph 3 for the Regional Director of Lands to review and make the decision to approve the release of appraisals or appraisal information for decisions made at the Regional or Forest level. Removes the former paragraph 7, which set out the responsibility for submitting agency-approved appraisals to the Bureau of Land Management (BLM) for lands administered by BLM.

**5404.23:** Removes the former paragraph 4, which set out the responsibility for ensuring that Statements of Value are accepted for agency use, and revises the enumeration of paragraphs in this section on responsibilities of the Forest Supervisor. Adds direction in paragraph 10 for the Forest Supervisor to certify that the estate acquired was the estate appraised and that the value represents current market conditions.

**5409.13:** Clarifies the description of FSH 5409.13, Land Acquisition Handbook, which sets out the procedures and requirements for Forest Service landownership adjustments and provides technical guidance to those involved with landownership adjustments.

## Table of Contents

<b>5401 - Authority .....</b>	<b>5</b>
<b>5402 - Objectives.....</b>	<b>5</b>
<b>5403 - Policy.....</b>	<b>5</b>
<b>5403.1 - National Forests .....</b>	<b>5</b>
<b>5403.2 - Land Utilization Projects .....</b>	<b>8</b>
<b>5403.3 - Private Property Rights.....</b>	<b>8</b>
<b>5404 - Responsibility .....</b>	<b>9</b>
<b>5404.1 - Washington Office.....</b>	<b>9</b>
<b>5404.11 - Chief.....</b>	<b>9</b>
<b>5404.12 - Deputy Chief for National Forest System .....</b>	<b>9</b>
<b>5404.13 - Associate Deputy Chief for National Forest System.....</b>	<b>9</b>
<b>5404.14 - Director of Lands, Washington Office .....</b>	<b>10</b>
<b>5404.15 - Chief Appraiser .....</b>	<b>11</b>
<b>5404.16 - National Landownership Adjustment Team .....</b>	<b>12</b>
<b>5404.2 - Field Units .....</b>	<b>12</b>
<b>5404.21 - Regional Forester .....</b>	<b>12</b>
<b>5404.22 - Regional Director of Lands .....</b>	<b>15</b>
<b>5404.23 - Forest Supervisor .....</b>	<b>15</b>
<b>5404.24 - District Ranger .....</b>	<b>16</b>
<b>5405 - Definitions .....</b>	<b>17</b>
<b>5406 - Role of Other Federal Agencies.....</b>	<b>18</b>
<b>5406.1 - Department of the Interior .....</b>	<b>18</b>
<b>5406.2 - Department of Justice .....</b>	<b>18</b>
<b>5406.3 - General Services Administration .....</b>	<b>18</b>
<b>5407 - Landownership Plans .....</b>	<b>18</b>
<b>5407.1 - Policy .....</b>	<b>18</b>
<b>5407.2 - Minimum Requirements.....</b>	<b>19</b>
<b>5407.21 - Regional and Forest .....</b>	<b>19</b>
<b>5407.22 - Program.....</b>	<b>19</b>
<b>5407.23 - Ranger District .....</b>	<b>19</b>
<b>5407.3 - Revision of Plans .....</b>	<b>19</b>
<b>5408 - Training .....</b>	<b>19</b>
<b>5409 - Handbooks.....</b>	<b>19</b>
<b>5409.1 - Internal Service-wide Handbooks .....</b>	<b>19</b>
<b>5409.12 - Appraisal Handbook.....</b>	<b>19</b>
<b>5409.13 - Land Acquisition Handbook.....</b>	<b>19</b>
<b>5409.17 - Rights-of-Way Acquisition Handbook .....</b>	<b>20</b>

## **5401 - Authority**

For related authorities concerning access to non-Federal lands, see FSM 2701.1, paragraph 18, and FSM 2701.3, paragraph 3.

1. At Title 7, Code of Federal Regulations, section 2.60 (7 CFR 2.60(a)(2) and (3)), the Under Secretary of Agriculture for Natural Resources and Environment has delegated to the Chief of the Forest Service the broad authority to purchase, exchange, and dispose of lands and interest in lands granted by various laws. The Chief also has the authority to divide into and designate as National Forests any lands of 3,000 acres or less which are acquired under or are subject to the Weeks Act, and which are contiguous to existing National Forest boundaries established under the authority of the Weeks Act. However, at 7 CFR 2.60(b)(6) the Under Secretary has reserved the authority to approve acquisitions under the Weeks Act and Special Forest Receipts Acts for lands of \$250,000 or more in value. Further requirements concerning land exchanges are at 36 CFR part 254, subpart A.

2. The Department of Transportation Uniform Relocation Assistance and Real Property Acquisition Regulations at 49 CFR part 24 prohibit an appraiser from negotiating any acquisition or exchange case that exceeds \$2,500 in real estate values.

## **5402 - Objectives**

The objectives of the Forest Service landownership adjustment program are to:

1. Achieve the optimum landownership pattern to provide for the protection and management of resource uses to meet the needs of the nation now and in the future.
2. Settle land title claims equitably and promptly, and avoid land use conflicts with non-Federal landowners.
3. Provide resource administrators readily accessible and understandable title information affecting the status and use of lands and resources they administer.

## **5403 - Policy**

### **5403.1 - National Forests**

1. Give priority to consolidation of National Forest System lands within existing National Forest units.
2. Acquire rights-of-way needed to ensure optimum protection and use of National Forest resources.
3. Exchange or otherwise dispose of lands out of the National Forest System that have lost their National Forest character or are no longer suitable for National Forest purposes.
4. Provide communities with the opportunity to acquire National Forest System lands using existing land conveyance authorities, such as the Townsite Act and the Sisk Act, for

expanding community purposes, including affordable housing, schools, and so forth. Ensure that these land conveyances are consistent with National Forest System management objectives.

5. Complete land-for-land exchanges to consolidate National Forest System lands and private, State, or local government land patterns; to permit needed urban or industrial expansion; or to make other adjustments in landownership that the Forest Service deems to be in the public interest.

6. Provide for or protect an authorized holder only to the extent that use is authorized under the terms and life of the existing authorization when National Forest System lands being conveyed are occupied under special use authorizations (FSM 2710). This can be accomplished by the non-Federal party furnishing signed agreements on disposition/protection of existing uses, to be placed in escrow awaiting consummation of the exchange. If such an agreement cannot be obtained, the Regional Forester or Forest Supervisor must decide whether the public interest is better served by terminating the authorization and completing the exchange or by not making the exchange. In no case shall exchanges be made "subject to" an authorized use, except for the 2-year grazing provision, when such exchange could result in the Forest Service administering uses on non-Federal lands after conveyance.

7. Limit land-for-timber exchanges to those cases which the Forest Service deems are in the public interest and where attempts to purchase or complete land-for-land exchanges have been unsuccessful.

8. Utilize land-for-timber and timber-for-timber exchange authorities only when counties affected by the exchange have no objection concerning the impacts on their payment in lieu of taxes payments or the 25 percent receipt fund and after the public is given notice of the proposal.

9. Seek early involvement of the public in exchange proposals through newspaper notices and notification of State and local governments, congressional delegations, and interested and affected members of the public.

10. Transfer and interchange land with other agencies to consolidate National Forest System lands, to clarify and reduce the cost of administration and protection, and to improve resource conservation production and utilization.

11. Give priority to processing of land purchases and donations that are identified in approved Forest land and resource management plans or landownership adjustment plans and that are within a National Forest or Grassland boundary.

12. Before constructing facilities on intermingled landownerships, procure in the name of the United States, or secure through a cooperating government agency, legally adequate and administratively satisfactory rights-of-way to cross non-Federal ownerships to or from the facilities.

13. Encourage donations of land to consolidate National Forest System lands to improve resource conservation and to obtain land needed for administrative or research purposes. Accept donations of forest and watershed land creating isolated parcels of the National Forest System

with consequent administrative and protection problems only when public values of the donated land fully justify the increased workload.

14. Obtain approval of the Assistant Secretary for Administration before starting any action (except appraisal where required) or making any public announcement about any purchase, the acceptance of any donation, or exchange of any real property for an administrative site if:

a. The acquired land is to be used as a site for administrative or research laboratory buildings and the market value of the site (land only) exceeds \$25,000.

b. The acquisition is for a site with completed improvements in lieu of construction specifically authorized by law and the cost of the improvements is more than \$250,000. (For further direction see the Agriculture Property Management Regulations, sec. 104-18.5003 (FSH 6409.31 - AGPMR 104-18.5003).)

15. Investigate title claims to National Forest System land promptly and objectively. If the Office of the General Counsel (OGC) determines the title claim is valid, take authorized action to relieve the Forest Service of administrative responsibility and to clear the records. For those claims determined not to be valid, attempt to obtain withdrawal of the title claim and acknowledgment of the Government's ownership. If the claimant persists, enters into occupancy, or commits other overt acts, recommend legal action to OGC to quiet the Government's title and recover damages.

16. Use authorities in provisions of the Small Tracts Act (96 Stat. 2535; 16 U.S.C. 521c-521i) to resolve landownership problems resulting from mineral fractions, encroachment, and road rights-of-way that are no longer needed.

17. To avoid the appearance of conflict of interest, do not assign the responsibility for processing an acquisition or exchange case to the employee who appraised the property.

18. Use the provision of the Federal Land Exchange Facilitation Act of 1988 (43 U.S.C. 1716; 102 Stat. 1086) for compensation for costs assumed only in rare cases that meet the criteria for exceptions in Title 36, Code of Federal Regulations, section 254.7 (36 CFR 254.7) and only after review and concurrence by the Director of Lands, Washington Office.

19. Use provisions of the Federal Land Exchange Facilitation Act of 1988 and 36 CFR 254.10 when bargaining or arbitration is needed to resolve land exchange value disputes (see FSM 5404.14, para. 10, for direction on the responsibility of the Director of Lands, Washington Office, for bargaining and arbitration).

20. Ensure that excess administrative sites and research facilities are conveyed through appropriate land exchange authorities into needed administrative facilities or resource lands.

21. Acquire land or interest in land with the rights necessary to protect the public's interest. Do not acquire lands that are subject to:

a. Provisions for reversion of title to the grantor,

b. Outstanding rights or covenants in prior conveyances providing for reversion of title, or

c. Conditions or covenants that would limit or impair the rights of the United States to manage the land for National Forest purposes.

22. Do not promote or encourage legislative proposals that would waive or eliminate the evaluation of real property transactions as required under existing environmental laws and regulations.

### **5403.2 - Land Utilization Projects**

These projects exclude those administered in connection with the National Forests prior to January 1, 1954, or under long-term lease to other public agencies as of January 1, 1954.

1. Retain Land Utilization Project lands (Title III, Bankhead-Jones Farm Tenant Act; 7 U.S.C. 1010-1012) that are desirable for National Forest System management and administration.

2. Transfer lands for projects to other Federal agencies if:

a. Future use of the land is in accord with the purposes of land conservation and utilization prescribed in Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) and

b. The needs of the requesting agency outweigh that of the State or the Department of Agriculture.

3. Exchange lands not desirable for retention in Federal ownership to State or private owners, or offer them for sale to public authorities and agencies. Base sales to public authorities and agencies at current market value less appropriate reduction due to the deed condition requiring the lands be held in public ownership and used for public purposes. Make sales only to agencies equipped to manage lands for conservation purposes. Make conveyance in accordance with the purposes of the Bankhead-Jones Farm Tenant Act of July 22, 1937 (50 Stat. 522, ch. 517, as amended; 7 U.S.C. 1010-1012; 16 U.S.C. 551).

4. Comply with policies on exchanges, donations, transfers of land, claims to lands, and rights-of-way in FSM 5403.1 that also apply to land utilization projects.

### **5403.3 - Private Property Rights**

Except as authorized by law, order, or regulation, Forest Service policies, practices, and procedures shall avoid regulating private property use. With respect to non-Federal lands, it is longstanding Forest Service policy to be a "good neighbor" to non-Federal landowners whose property is adjacent to or intermingled with National Forest System lands and to recognize their right to reasonable access to and use of their property (FSM 2701.1, para. 18; FSM 2701.3, para. 3; and FSM 2730.3).



In situations in which anticipated uses of private lands would adversely affect National Forest System lands and resources and when the purchase of those private lands would benefit management and protection of National Forest System lands, line officers shall consider acquisition in accordance with established legal authorities. In case of reserved and outstanding rights, the relative rights of the Federal Government and private property owners are governed by statute, the terms of the associated documents, and often the common law of the State wherein the property is located.

## **5404 - Responsibility**

### **5404.1 - Washington Office**

#### **5404.11 - Chief**

The Chief reserves the authority to forward to the Secretary for approval any proposed land acquisition or exchange that in the Chief's judgment is precedent setting or of such policy sensitivity that higher level review and approval are merited.

#### **5404.12 - Deputy Chief for National Forest System**

The Deputy Chief for the National Forest System is responsible for assisting the Chief in establishing national landownership policies, programs, and objectives. Also, the Deputy Chief is responsible for bringing to the Chief's attention any land acquisition case that may have policy implications or be precedent setting and that may attract congressional or media attention.

#### **5404.13 - Associate Deputy Chief for National Forest System**

The Associate Deputy Chief is delegated the authority to:

1. Submit declarations of taking and requests for condemnation of property, as authorized by law to carry out the mission of the Forest Service, to the Secretary for approval and signature (40 U.S.C. 257; 7 CFR 2.60(b)(5)).
2. Submit to the Secretary for approval requests to divide into and designate as National Forest any lands of more than 3,000 acres acquired under or subject to the Weeks Act of March 1, 1911, as amended (16 U.S.C. 521).
3. Approve the division into and designation as National Forest, as necessary for administrative purposes, any lands of 3,000 acres or less that are acquired under or subject to the Weeks Act of March 1, 1911, as amended, and that are contiguous to existing National Forest boundaries established under the authority of the Weeks Act.
4. Submit to the Secretary recommendations regarding transfer to other Federal, State, or Territorial agencies lands acquired under the Bankhead-Jones Farm Tenant Act, together with recommendations on the conditions of use and administration of such lands, pursuant to the provisions of section 32(c) of Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)), Executive Order 11609, and 7 CFR 2.60(b)(3).

#### **5404.14 - Director of Lands, Washington Office**

Except where limitations on such delegations are noted in paragraphs 1-14, the Director of Lands, Washington Office, may delegate the following authorities and responsibilities to the Deputy Director or Assistant Director of Lands. The Director of Lands, Washington Office, has the authority and responsibility to:

1. Submit all proposals for acquisition of administrative sites or facilities to the Assistant Secretary for Administration for advance approval prior to making any public announcement and prior to starting any action other than appraisals, when the site (land only) is valued at more than \$25,000 or when the site contains (or will contain upon consummation of an exchange) a completed building valued at \$250,000 or more.

2. Notify House and Senate Committees on Appropriations prior to:

- a. Acquiring lands for more than the approved appraised value.
- b. Using a declaration of taking to acquire land or an interest in land.
- c. Reprogramming funds, if reprogramming exceeds \$500,000 annually or results in an increase or decrease of more than 10 percent annually in affected programs (Pub. L. 102-154, 105 Stat. 990).

3. Submit all exchange cases with Federal land value in excess of \$500,000 to the House and Senate Committees on Appropriations for a 30-day review period at the time of publication of the 4-week notice of exchange proposal.

4. Submit all purchases and exchanges under the Weeks Act of March 1, 1911, as amended, and Special Forest Receipts acts, of \$250,000 or more in value for National Forest purposes to the Secretary for approval.

5. Submit all purchase and exchange cases under the Weeks Act of March 1, 1911, as amended, and Special Forest Receipts Act of \$150,000 or more in value to the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Agriculture for 30-day oversight prior to consummation.

6. Execute National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4347) and other legal documents for the acquisition and conveyance of lands and interest in lands as may be required in the landownership program of the Forest Service.

7. Approve counteroffers for land purchases, other than road rights-of-way, in excess of approved appraised values and, in condemnation cases, to establish just compensation (42 U.S.C. 4601), after obtaining written approval by the House and Senate Committees on Appropriations.

8. Approve cases, execute documents, and make final dispensation of title claims, sales, and grant cases not delegated to Regional Foresters.

9. Approve all title claim litigation cases for forwarding to the Department of Justice through the Office of the General Counsel.

10. Use the provisions of the Federal Land Exchange Facilitation Act of 1988 and 36 CFR 254.10 when bargaining or arbitration is needed to resolve land exchange value disputes. This responsibility cannot be delegated.

11. Carry out responsibilities to:

- a. Plan, develop, and administer the landownership adjustment program of the Forest Service.
- b. Issue the agency's written concurrence to settlement of a condemnation case where the settlement offer exceeds \$100,000.
- c. Respond to requests received by the Chief for information on landownership adjustment cases in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) (FSM 6270).
- d. Secure appropriate permission for Regional Foresters to make direct referral of routine title claim cases to the United States Attorney.
- e. Review all unequal value land exchange cases made under the authority of section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(f)), as amended or section 1302(h) of the Alaska National Interest Lands Conservation Act of (16 U.S.C. 3192) prior to approval by the Regional Forester.
- f. Review and concur on proposals to compensate, including cash equalization payments, a non-Federal land exchange party for assuming exchange processing costs normally borne by the Forest Service, before the authorized officer proceeds with the Agreement to Initiate.
- g. Review landownership adjustment cases to ensure compliance with appropriate laws, regulations, and policies before submitting them for the Secretary of Agriculture's approval or congressional oversight.

12. Review proposed legislation involving realty functions or real estate transactions.

13. Approve the release of appraisals or appraisal information for the Washington Office in response to written requests under the Freedom of Information Act (FSM 5410.41a, FSM 6270, and FSH 6209.13). This responsibility may not be delegated.

14. Approve termination of options to purchase lands or interests therein.

#### **5404.15 - Chief Appraiser**

The Chief Appraiser, Lands Staff, Washington Office, is responsible for planning, development, and technical administration of the overall real estate valuation program of the Forest Service

and has the authority to review and approve all real estate appraisals to ensure that they meet Forest Service standards.

This authority to review and approve real estate appraisals may be delegated by the Chief Appraiser to named qualified Regional Appraisers (FSM 5410.6).

#### **5404.16 - National Landownership Adjustment Team**

The core members for the National Landownership Adjustment Team are comprised of senior-level Washington Office lands and realty staff and either the Chief Appraiser, Lands Staff, Washington Office (FSM 5410.41b), or a Regional Appraiser (FSM 5410.65). The responsibilities of the National Landownership Adjustment Team are to review and concur:

1. In all proposed land exchange cases valued at \$500,000 or more during the feasibility analysis stage to ensure that the proposal appears feasible and is in the public interest.
2. In all land exchange cases valued at \$500,000 or more when the formal analysis has been completed but prior to the decision by the authorized officer to execute the land exchange (FSH 5409.13, ch. 30).
3. In all sales, except Townsite Act and Small Tracts Act cases, and for all land exchange cases exceeding \$500,000 when the proposals involve high public concern, significant issues or complexity, or potential for risk or abuse.
4. On the procedures to implement legislated land exchanges and sales on a case-by-case basis.
5. On the procedures to implement court-related exchanges on a case-by-case basis.
6. With all proposals to use categorical exclusion for land exchanges.
7. In all sales, except Townsite Act and Small Tracts Act cases, during the marketing strategy phase to ensure that the appropriate sales method is employed and that the proposed strategy meets the intent of the enabling legislation.

#### **5404.2 - Field Units**

##### **5404.21 - Regional Forester**

The responsibilities identified in paragraphs 2 through 22 may be delegated to the Regional Director or Deputy Director or Lands. The responsibilities identified in paragraphs 15 through 21 may be further delegated to Forest Supervisors if the Forest has adequate landownership adjustment guidance in its Forest land and resource management plan and/or an approved Landownership Adjustment Plan and has the staff with the demonstrated skills, knowledge, and training to perform the required landownership adjustment duties. The Regional Forester shall document such delegations in writing to identify the duties delegated and the justification for the delegation.

The Regional Forester is responsible for planning and carrying out all aspects of the lands program and has the responsibility to:

1. Cooperate with Directors of the Forest and Range Experiment Stations in accomplishing needed landownership adjustments within research areas and to carry out the procedural details of landownership adjustments needed to meet research needs.
2. Monitor the authorities and responsibilities delegated to Forest Supervisors, especially when there are personnel changes involved in landownership adjustment activities.
3. Plan, conduct, and provide oversight for Regional land adjustments based on the land and resource management plans and compliance with appropriate laws, regulations, and policy.
4. Inform the Chief of all acquisition cases that may have policy implications or be precedent setting and may attract congressional or media attention. For such cases, complete the Early Warning Alert, Form FS-1600-13, and submit it electronically to the Director of Lands, Washington Office, to forward the form to the Chief.
5. Specify responsibilities of each administrative unit and coordinate landownership adjustment actions involving more than one administrative unit.
6. Ensure that each administrative unit maintains a current land status record, including records of withdrawals, leases, outstanding rights, and other matters affecting National Forest System management.
7. Approve exchanges involving proposed acquisition of administrative sites or facilities (FSM 5403.1).
8. Approve performance or security bonds in connection with exchange cases, after review by the Office of General Counsel for legal sufficiency.
9. Accept and approve options to purchase administrative sites only after approval of the Assistant Secretary for Administration, as required by the Agriculture Property Management Regulations (FSM 5403.1, para. 14).
10. Approve all purchase cases, except Weeks Act and Special Forest Receipts Act cases, of \$250,000 or more in value. Subject to certification from the Washington Office Director or Deputy Director of Lands that funds are available, accept all purchase options, including those requiring prior Secretary's approval and/or congressional oversight. The authority to accept options on land purchase cases under \$150,000 may be delegated to Forest Supervisors who meet the requirements in this section.
11. Issue the agency's written concurrence to settlement of condemnation cases within the guidelines established in FSM 5480 when the settlement offer does not exceed \$100,000.
12. Ensure the Regional Appraiser directly supervises all staff appraisers regarding performance, staffing, training, and work assignments. The Regional Appraiser may authorize limited delegation of supervisory authority to Senior Review Appraisers when the supervisory

span of control for the Regional Appraiser would otherwise be onerous. Such delegation by the Regional Appraiser shall require the written concurrence of the Regional Director with lands responsibilities and the Chief Appraiser.

13. Ensure all appraisal staff who prepare summary or self-contained appraisal reports have full-time appraisal duties.

14. Issue letters of intent to nonprofit organizations outlining acquisition proposals in situations where there are appropriated funds for the acquisition. Conduct transactions with nonprofit conservation organizations according to the “Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies,” published by the Department of Interior in the Federal Register, August 10, 1983 (48 FR 36342).

15. Accept donations of lands or interests in lands that the Forest Service will administer only when the lands or interests in land meet the criteria set out in FSM 5403.1. Donations in the following categories must have prior review and concurrence by the Washington Office, Director of Lands, and may also require review and approval by the Office of General Counsel:

- a. The donation may result in adverse public reaction or controversy.
- b. The donation is outside the boundaries of a National Forest, National Grassland, or purchase unit, or is an isolated tract within an existing unit not planned for acquisition in an approved land and resource management plan.
- c. The donation is subject to outstanding rights or reservations that could preclude public use of the property for a period of time, affect management of adjoining public lands, or result in future activities limiting public use.
- d. Acceptance of the donation could be construed as obligating the United States to expend funds in excess of the usual protection and management appropriation, such as properties requiring special expenditures to ensure public safety or to meet appropriate public health or environmental standards.
- e. Offers to donate rights or interests in land are not identified for acquisition in approved land and resource management plans and the United States does not own existing interests in the property, such as easements in gross.

16. Perform all duties required in connection with acquisition of lands or interests in lands in conformance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of January 2, 1971 as amended (42 U.S.C. 4601 (note), 4601, 4602, 4604, 4621-4633, 4635, 4636, 4638, 4651-4655), and the regulations of the Secretary of Transportation (49 CFR part 24).

17. Accept title to non-Federal lands, execute deeds, and request patent(s) or authorize delivery of other considerations after approval of exchanges, purchases, donations, transfers, and interchanges.

18. Execute exchange decision documents and consummate all exchanges of land or interests in lands subject to approval of the Secretary and/or congressional oversight review, after any required review by the Washington Office Director, Deputy Director or Assistant Director of Lands (FSM 5403.1, 5404.14). See the preceding paragraph 9 in this section concerning approval of administrative site exchanges.

19. Execute exchange documents, such as agreements to initiate, exchange agreements, and exchange cutting agreements, including modifications.

20. Authorize cutting and removal of exchange timber or release of funds in land for timber exchanges after acceptance of title to the non-Federal land.

21. Execute sale decision and case preparation documents. See FSM 5500 for additional direction for Townsite Act and Small Tracts Act sales.

22. Approve marketing strategy, execute purchase and sale agreements, and consummate all sales of land or interest in land. See FSM 5500 for additional direction for Townsite Act and Small Tracts Act sales.

#### **5404.22 - Regional Director of Lands**

The Regional Director for the lands program has the following responsibilities, which may be further delegated to the Deputy Director for the lands program, except as specifically limited in the following paragraph 3:

1. Ensure that landownership adjustment planning is completed and current and that real estate management is an integral part of each land and resource management plan.
2. Promptly investigate title claims to National Forest System land and, with assistance from the Office of General Counsel, obtain relinquishment of invalid title claims or complete reconveyances of land in those found valid.
3. Review and approve the release of appraisals or appraisal information for field units in response to written requests under the Freedom of Information Act (FSM 5410.42b, FSM 6270, and FSH 6209.13). This responsibility may not be delegated.

#### **5404.23 - Forest Supervisor**

Each Forest Supervisor is responsible for preparing and carrying out an effective landownership adjustment program. Unless otherwise provided by the Regional Forester (FSM 5404.21, para. 15-21), each Forest Supervisor is responsible for:

1. Conducting studies needed for landownership direction as an integral part of the land and resource management plan.
2. Preparing and maintaining plans to fulfill landownership management responsibilities.

3. Directing the necessary surveys, appraisals, and negotiations in exchanges, purchases, sales, and other landownership adjustment transactions, including rights-of-way procurement and title claims, and furnishing complete reports and recommendations as required by the Regional Forester.

4. Requesting Bureau of Land Management reports on the status and approval of conveyance of minerals, and arranging for land surveys when needed.

5. Planning and carrying out the program to survey, mark, and maintain National Forest property lines.

6. Maintaining a current land status record, including records of withdrawals, leases, outstanding rights, and other matters affecting National Forest System management.

7. Providing the appropriate congressional delegation with current information about landownership adjustments and including the appropriate congressional delegation in the initial public involvement process so their views can be considered in the development of specific cases.

8. Informing the Regional Forester of all acquisition cases that may have policy implications or be precedent setting and may attract Congressional or media attention, and completing and electronically submitting the Early Warning Alert, Form FS-1600-13, for such cases.

9. In response to an exchange offer, determining if the exchange is in the public interest and meets requirements of law, regulation, policy, and the approved land and resource management plan, and rejecting any offer that does not meet these requirements.

10. Immediately prior to executing a binding document for a land transaction, completing certification in writing that the estate(s) appraised is the same (both the legal description and physical condition on the ground) as that proposed for conveyance or acquisition, and further, that the estimate of value represents current market conditions (FSM 5410.3 para. 16).

#### **5404.24 - District Ranger**

Unless otherwise provided by the Forest Supervisor, each District Ranger is responsible for:

1. Participating in preparation of Forest landownership adjustment plans and programs as they affect the District.

2. Transmitting complete reports and recommendations to the Forest Supervisor.

3. Assisting the Forest Supervisor in the completion of landownership adjustment transactions involving lands within the administrative area.

4. Informing the Forest Supervisor of all acquisition cases that may have policy implications or be precedent setting and may attract congressional or media attention, and



completing and submitting electronically the Early Warning Alert, Form FS-1600-13 for such cases.

5. In response to an exchange offer, determining if the exchange is in the public interest and meets requirements of law, regulation, policy, and the approved land and resource management plan, and rejecting any offer that does not meet these requirements.

## **5405 - Definitions**

Land Status. Ownership records of title to lands, withdrawals, rights, or privileges which affect or influence the use and management of National Forest System lands. It is the system of assembling, recording, and making landownership and related information available to field personnel.

Land Utilization Projects. Lands administered by the Forest Service for programs of land utilization and adjustment under Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010, 1011(c)).

Landownership. In the context of this title, FSM 5400, the term including:

- a. Purchases and donations of land or interests in lands,
- b. Exchanges,
- c. Interchanges with the Corps of Engineers and other Department of Defense agencies,
- d. Transfers with other Federal agencies,
- e. Sales,
- f. Grants,
- g. Title claims to Government lands, and
- h. Reconveyances of lands erroneously acquired.

National Forest System. All National Forest lands reserved or withdrawn from the public domain of the United States; all National Forest lands acquired through purchase, exchange, donation, or other means; the National Grasslands and Land Utilization Projects administered under Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1012); and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system (Forest and Rangeland Renewable Resources Planning Act of 1974, 16 U.S.C. 1609).

National Forests. Areas formally reserved, designated, or proclaimed as National Forests.

National Grasslands. Lands designated as National Grasslands by the Secretary of Agriculture and permanently held by the Department of Agriculture under Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1012; 36 CFR part 213).

Purchase Units. Approved National Forest acquisition areas established by the Secretary of Agriculture prior to October 23, 1976, with concurrence of the National Forest Reservation Commission; or since October 23, 1976, by the Secretary of Agriculture, with oversight of Weeks Act acquisition cases of \$150,000 or more by the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

## **5406 - Role of Other Federal Agencies**

### **5406.1 - Department of the Interior**

The Bureau of Land Management, Department of the Interior is responsible for official cadastral surveys of public domain lands, issuance of mineral leases and permits, concurrence in mineral disposition on National Forest System lands reserved from the public domain, and issuance of patents to lands conveyed through exchange.

### **5406.2 - Department of Justice**

The Attorney General is responsible for condemnation proceedings and litigation to resolve trespasses and to recover damages where trespasses are committed. The Attorney General has delegated to the Office of the General Counsel the authority to approve titles to lands or interests in lands. The Attorney General retains title approval authority for fee acquisitions where less than a full general warranty deed is taken or a reversionary provision is included in the deed to the United States; related responsibilities of Forest Service officials are in FSM 5480.

### **5406.3 - General Services Administration**

The General Services Administration (GSA) disposes of excess Federal property and transfers to the Department of Agriculture those lands declared excess by other Federal agencies and needed in connection with the National Forest System.

Under provisions of the President's memorandum of September 6, 1973, GSA coordinates implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 throughout the executive branch.

## **5407 - Landownership Plans**

### **5407.1 - Policy**

The Forest Supervisor shall prepare and maintain appropriate written material to implement landownership adjustment actions and rights-of-way procurement in conformance with the land and resource management plan. Incorporate such written material into one document or set of documents for the plan.

Incorporate land adjustment and right-of-way procurement action documents into work planning and budget procedures of the Region and National Forest System units, designed to accomplish the landownership program in conformance with the plan.

## **5407.2 - Minimum Requirements**

### **5407.21 - Regional and Forest**

Prepare documents adequate to guide the long-range (5-10 year) landownership adjustment program and to plan the annual program of work at the Region and Forest levels.

### **5407.22 - Program**

Regional Foresters shall establish guidelines for National Forest System units to ensure that landownership adjustment planning is commensurate with activities expected on those units.

### **5407.23 - Ranger District**

Where considerable landownership adjustment work is underway or planned, prepare a fiscal year action plan.

## **5407.3 - Revision of Plans**

The Forest Supervisor shall amend or revise long-range implementation schedules in connection with amendment or revision of the plan or whenever major changes in landownership programs warrant revision or amendment of the plan.

## **5408 - Training**

Regional Foresters must ensure that personnel assigned landownership functions can discharge their responsibilities effectively and efficiently (FSM 6140) and shall provide training as needed.

## **5409 - Handbooks**

### **5409.1 - Internal Service-wide Handbooks**

#### **5409.12 - Appraisal Handbook**

This Handbook provides detailed technical and procedural guidance for preparing real estate appraisals for the Forest Service.

#### **5409.13 - Land Acquisition Handbook**

This Handbook outlines the procedures and requirements for Forest Service landownership adjustments and provides technical guidance to those involved with landownership adjustments.

## **5409.17 - Rights-of-Way Acquisition Handbook**

This Handbook provides direction and procedural information for the negotiation, acquisition, and approval for legal sufficiency of rights-of-way acquired by the Forest Service.