

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

**Forest Service Manual 5400 – Landownership**

**Chapter 5440 – Partial Land Interests, Except Rights-of-Way**

**Amendment:** 5400-2003-6

**Effective date:** June 18, 2003

**Duration:** This amendment is effective until superseded or removed.

**Superseded Directive:** 5440, Amendment 5400-90-1, June 1, 1990; 5420, Amendment 5400-2003-5

**Approved by:** Susan M. Super, Acting Service-wide Directive Manager

**Date approved:** June 11, 2003

**Responsible Staff:**

**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 5400-2003-5 to 5420

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

**5440:** This is a technical amendment that converts the format and style of this chapter (previously in “Applixware”) to the new FSM template using the agency’s current corporate word processing software. Where chapters were previously organized into more than one document, they are now merged into one chapter whenever possible.

Although some minor typographical and technical errors have been corrected, this amendment contains no changes to the substantive direction in this chapter.

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This chapter does not cover the following:

1. Right-of-way acquisitions (FSM 5460).
2. Leasing guidelines (FSH 6409.31, 104G-18.150).
3. Acquisitions of the fee estate, subject to outstanding rights or reservations (FSM 5420, FSM 5430, and FSM 5470).

#### **5440.1 - Authorities**

##### **5440.11 - Acts With General Application**

1. Department of Agriculture Organic Act, August 3, 1956. (70 Stat. 1034; 7 U.S.C. 428a). This Act provides authority for the acquisition of partial interests outside areas containing specific legislative authority. Partial interests can be acquired whenever necessary to carry out the authorized work of the Forest Service, provided provision is made in the applicable appropriations act or other law.

2. Weeks Law, Act of March 1, 1911, as Amended. (36 Stat. 961, as amended; 16 U.S.C. 480, 500, 513-517, 517a, 518, 519, 521, 552, 563, as amended).

The Weeks Law provides authority to purchase partial interests in land where the acquisition is necessary to protect the watersheds of navigable streams or promote the production of timber on National Forest lands. Prior approval by the Secretary of Agriculture must be obtained for all acquisitions. Congressional oversight is required for interests valued at more than \$25,000. There must be strong justification to support acquisition of mineral interests when prior surface acquisition was supported by a certificate of use and consent stating that the outstanding rights would not interfere with objectives of the purchase.

For the primary purpose of protecting recreation values, the acquisition of outstanding mineral interests on National Forest lands shall be under authority of the Act of August 3, 1956.

3. Endangered Species Act of December 28, 1973 (87 Stat. 884 as Amended).
4. Exchange Authorities. The Federal Land Policy and Management Act of 1976 (P.L. 94-579) allows the Secretary of Agriculture to acquire and dispose of interests in land by exchange.

##### **5440.12 - Acts Applying to Wilderness, Wild and Scenic River, and National Trail System Authorities**

See FSM 5420.

### **5440.13 - Other Acts**

Regional Foresters shall supplement this section of the manual, as needed, to define the authorities specific to that Region, such as National Recreation areas, Scenic-Research areas, and other specific acts.

### **5440.2 - Objectives**

The objectives of partial interest acquisition are to:

1. Provide for acquisition of only those interests in land necessary to meet planned program objectives.
2. Provide for continuance of private land uses, which are consistent with planned program objectives.

### **5440.3 - Policy**

1. Acquire only those interests in land necessary to provide for planned management needs, as jointly agreed by Federal Agencies in "Policy for Use of the Federal Portion of the Land and Water Conservation Fund" published in the Federal Register, Volume 47, No. 89, Friday, May 7, 1982.
2. Base decisions to acquire partial interests on approved Forest Land Management Plans or, in the interim, landownership adjustment plans.
3. Consider less-than-fee interests, as well as reservations for life or term of years, when a property contains substantial improvement value and the continued use of the property will not adversely affect the management objectives for the area.

### **5440.4 - Responsibilities**

#### **5440.41 - Regional Forester**

1. The Regional Forester is responsible for the land ownership planning process that identifies the acquisition of partial interests. The Regional Forester shall ensure that plans (Forest Land Management or others) adequately address whether fee or partial interest is required to satisfy a particular need.
2. The Regional Forester shall approve acquisition of scenic easements or other partial interests. The Regional Attorney assists in the preparation of the conveyance document.