

**Forest Service Handbook
National Headquarters - Washington Office
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**Forest Service Handbook 5509.11 – Title Claims, Sales, and Grants Handbook
Chapter 40 – Special Acts**

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Duration: This amendment is effective until superseded or removed.

Superseded Directive: Title Page; 5509.11, Contents; 00--1 thru 52; 5509.11,60 Contents; 5509.11,60; 5509.11-92-3, 2/25/92; 5509.11-92-2, 2/25/92; 5509.11-92-1, 2/25/92; Entire Handbook issued 2/88

Approved by: F. Dale Robertson, Chief

Date approved:

Responsible Staff:

POSTING NOTICE. Amendments are numbered consecutively by Handbook number and calendar year. Post document in numerical order of chapters (1109.12, sec. 4.32, ex. 01). Remove entire national text of the Handbook and replace with this amendment. DO NOT REMOVE SUPPLEMENTS OR INTERIM DIRECTIVES. Retain this transmittal as the first page of this document.

Explanation of changes:

This amendment is a reissuance of FSH 5509.11 to conform the format and structure of the Handbook to the requirements of electronic directive issuance.

This amendment makes no substantive changes to the text. The only changes made are those necessary to meet new format requirements or to correct spelling, punctuation, or unit names.

This Handbook is now available electronically in the National Information Center in the same format as the paper copy. Henceforth, amendments to this Handbook will be issued to Forest Service units electronically on a document basis.

Table of Contents

41 - Sales	3
41.01 - Authority	3
42 - Grants	3
42.01 - Authority	3
42.03 - Policy.....	3
42.04 - Responsibility	3
42.1 - Alaska Community Development.....	4
42.11 - Procedures	4

The following acts affect National Forest lands in Alaska only. Region 10 supplements provide specific information and instructions pertaining to these acts.

41 - Sales

41.01 - Authority

Tongass National Forest Timber Act. The Act of August 8, 1947 (61 Stat. 920), authorizes the sale of lands within the Tongass National Forest needed in connection with or for the processing of timber.

42 - Grants

42.01 - Authority

1. Alaskan Native Allotment. The Act of May 17, 1906 (34 Stat. 197), as amended by the Act of August 2, 1956 (70 Stat. 954), provides for allotments to Indians, Aleuts, and Eskimos.

2. Alaska Community Development. Section 6(a) and (g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 342), as amended by the Act of October 8, 1963 (77 Stat. 223), grants to the State of Alaska the right to select National Forest lands for the development and expansion of communities.

42.03 - Policy

Alaska Community Development. Complete all selections within 25 years of passage of the Statehood Act. The Forest Service shall cooperate with officials of the State and communities in identifying lands that meet the requirements and intent of the grant.

42.04 - Responsibility

1. Alaska Native Allotment. The Regional Forester for Alaska has the delegated authority to perform the functions granted to the Secretary of Agriculture by the act, as amended (36 F.R. 18428), except for approval of applications. The Chief reserves this authority.

2. Alaska Community Development. The Regional Forester for Alaska has the delegated authority to perform the functions granted to the Secretary of Agriculture by the act, as amended (38 F.R. 14944 and 41 F.R. 3766).

42.1 - Alaska Community Development

The Regional Forester shall confer and cooperate with State and community officials on proposed selections to achieve the combination of location, acreage, and other factors that best serve the development needs of the community or communities concerned.

42.11 - Procedures

An application by the State to the Regional Forester shall initiate each selection.

1. Application Contents. The application by the State shall include descriptions and maps, which, in the judgment of the Regional Forester, provide sufficient detail to permit a responsible judgment about whether the tract may be selected under the Alaska Statehood Act.

The State is responsible for providing sufficient documentation and analysis to support their conclusion that it is reasonable to expect that use of the sites will be for the specific statutory purposes and that the site is either adjacent to an existing community or suitable for the development of a community center and recreation area.

a. Suitable. In order to qualify as suitable for a prospective community center and recreation area, a site must have the physical capability to support development of a community center and recreation area. In addition, there must be a reasonable expectancy that site development will be for those purposes. Read the phrase "prospective community center and recreation area" as a single standard and not as two separate or independent bases for land selections.

b. Adjacent. In order to qualify as adjacent to an existing community, a site must be near, but need not adjoin, an established community. In addition, there must be a reasonable expectancy that use of the land will, in fact, further community development. For the purposes of this evaluation, a borough does not constitute a community.

2. Handling. If the Regional Forester determines that the application meets the criteria set forth previously, forward the application and supporting documents to the Attorney In Charge, Office of the General Counsel, Juneau, Alaska, for determination of whether or not it is possible to grant approval without conflict with the terms of the Alaska Statehood Act.

3. Third Party Rights. Process applications the Regional Forester judges to be consistent with the criteria set forth in FSM 5455.22, item 4a, and for which the Attorney In Charge has found authority for approval in accordance with 43 CFR 2627.1. The conveyance must protect all existing third party rights in the selected lands.

4. National Environmental Policy Act Guidelines. The guidelines set forth in FSM 1950 apply in considering each application. The Regional Forester shall determine whether an environmental statement is necessary.

5. Nonapproval. The Regional Forester shall notify the State immediately if the application is not approved. Set forth the reasons for not granting approval in the Regional Forester's letter and include advice relative to the appropriate appeal procedure. Send a copy of this letter to the Chief.