1991—Subsec. (b)(4)(A). Pub. L. 102–186 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''$3,375,000 to fund grants under section 1125 of title 33, and of this amount, $2,500,000 to fund grants in the Great Lakes region; and''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4714 of this title.

SUBCHAPTER V—COOPERATIVE ENVIRONMENTAL ANALYSES

§ 4751. Environmental impact analyses

The Secretary of State, in consultation with the Council on Environmental Quality, is encouraged to enter into negotiations with the governments of Canada and Mexico to provide for reciprocal cooperative environmental impact analysis of major Federal actions which have significant transboundary effects on the quality of the human environment in the United States, Canada, and Mexico.

(Pub. L. 101–646, title I, § 1401, Nov. 29, 1990, 104 Stat. 4773; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

AMENDMENTS

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 1401, which enacted this section.

CHAPTER 68—PACIFIC YEW CONSERVATION AND MANAGEMENT

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§ 4801. Findings, purposes, and definitions

(a) Findings

Congress finds the following:

(1) Over 12,000 women die each year from ovarian cancer and 44,500 women die from breast cancer.

(2) Taxol, a drug made from the Pacific yew (Taxus brevifolia), has been successful in treating ovarian cancer in clinical trials and shows promise in the treatment of breast cancer and other types of cancer.

(3) The production of small amounts of taxol currently requires the use of large numbers of Pacific yew.

(4) The Pacific yew is a slow-growing tree species found in the Western United States.

(5) Significant numbers of Pacific yew trees are found in old-growth forests on Federal lands in the Pacific Northwest.

(6) Before the importance of taxol was discovered, the Pacific yew was considered a trash tree and was often burned in slash piles after timber operations.

(7) Remaining Pacific yew resources must be carefully managed in order to ensure a steady supply of taxol for the treatment of cancer, while also providing for the long-term conservation of the species.

(8) Appropriate management guidelines must be implemented promptly in order to prevent any wasting of the Pacific yew in current and future timber sales on Federal lands, while successful and affordable alternative methods of manufacturing taxol are being developed.

(b) Purposes

The purposes of this chapter are to contribute to the successful treatment of cancer by ensuring that Pacific yew trees located on lands of the National Forest System and on public lands administered by the Bureau of Land Management are managed to—

(1) provide for the efficient collection and utilization of those parts of the Pacific yew that can be used in the manufacture of taxol for the treatment of cancer;

(2) provide for the sale of Pacific yew from such lands for the commercial production and subsequent sale of taxol at a reasonable cost to cancer patients;

(3) ensure the long-term conservation of the Pacific yew; and

(4) prevent the wasting of Pacific yew resources while successful and affordable alternative methods of manufacturing taxol are being developed.

(c) "Secretary concerned" defined

For purposes of this chapter, the term ''Secretary concerned'' means—

(1) the Secretary of Agriculture, with respect to lands and interests in lands under the jurisdiction of the Forest Service; and

(2) the Secretary of the Interior, with respect to lands and interests in lands under the jurisdiction of the Bureau of Land Management.

(Pub. L. 102–335, § 2, Aug. 7, 1992, 106 Stat. 859.)

SHORT TITLE

Section 1(a) of Pub. L. 102–335 provided that: ''This Act [enacting this chapter] may be cited as the 'Pacific Yew Act'.''

§ 4802. Pacific yew conservation and management

(a) Pacific yew policy

The Secretary of Agriculture and the Secretary of the Interior shall pursue a conservation and management policy with respect to lands and interests in lands under the jurisdiction of the Forest Service or the Bureau of Land Management, which contain the Pacific yew in order to—

(1) provide for the sustainable harvest of Pacific yew, or Pacific yew parts, in accordance with relevant land and resource management plans for the manufacture of taxol; and

(2) provide for the long-term conservation of the Pacific yew in the wild.

(b) Content of policy

The conservation and management policy required by subsection (a) of this section shall ensure that—

(1) in planning harvests of the Pacific yew, priority be given first to areas in which timber has been cut but Pacific yew trees have not been removed, second to areas in which timber is already sold but remains uncut, third to areas scheduled for timber sale in the near future, and fourth to those other areas where commercial and salvage timber sales are allowed under existing laws;

(2) individual Pacific yew trees are utilized with little or no waste;

(3) to the extent that timber harvesters' health and safety will not be jeopardized, the bark is harvested from Pacific yew trees in timber sale areas before the harvest of other timber resources;

(4) whenever Pacific yew trees are harvested, they are—

(A) cut using methods designed to allow for resprouting from the stump; and

(B) replanted where necessary to maintain the species in the ecosystem; and

(5) timber management and harvest activities are carried out in a manner that will minimize any adverse effects on the survival and regeneration of Pacific yew trees.

(c) Application of policy to timber harvesting

(1) Application

The Secretary concerned shall ensure that timber sales awarded after August 7, 1992, and timber sales completed before August 7, 1992, but still unharvested on August 7, 1992, are conducted in accordance with—

(A) the policy expressed in subsection (a) of this section; and

(B) the relevant land and resource management plans of the Secretary concerned.

(2) Consultation under Endangered Species Act

If the Secretary concerned foresees the need to harvest Pacific yew in an area for which an opinion issued under subsection (b)(3)(A) of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) has concluded that a commercial timber sale is likely to jeopardize the continued existence of an endangered or threatened species or destroy or adversely modify critical habitat identified for the species under that Act [16 U.S.C. 1531 et seq.], the Secretary concerned shall immediately initiate consultation under that section to determine the effect on endangered and threatened species and critical habitat of harvesting only Pacific yew trees.

(d) Inventory of Pacific yew

Not later than 6 months after August 7, 1992, each Secretary concerned shall complete the ongoing inventory of Pacific yew on lands under the jurisdiction of the Secretary concerned.

(Pub. L. 102–335, § 3, Aug. 7, 1992, 106 Stat. 860.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (c)(2), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4805, 4806 of this title.

§ 4803. Research

Each Secretary concerned shall encourage and, where appropriate, assist in research regarding—

(1) the ecology of the Pacific yew;

(2) the development of alternative methods of procuring taxol, including utilization of other yew parts in addition to bark, the sustainable harvest of yew needles, and the utilization of other yew species; and

(3) the propagation of Pacific yew and other yew species in agricultural or commercial settings.

(Pub. L. 102–335, § 4, Aug. 7, 1992, 106 Stat. 861.)

§ 4804. Collection and sale of Pacific yew resources

(a) Enforcement and access

The Secretary concerned shall ensure the development, implementation, and enforcement of processes for the collection and sale of Pacific yew resources that will minimize the illegal harvest and sale of such resources. The Secretary shall also ensure that access to Pacific yew resources is allowed in a timely manner such that collection of Pacific yew parts can occur before the taxol properties of such parts are degraded.

(b) Negotiated sales

(1) Forest Service sales

Notwithstanding section 472a of this title, the Secretary of Agriculture may negotiate sales of Pacific yew on lands under the jurisdiction of the Forest Service at not less than appraised value, to parties manufacturing taxol in the United States in accordance with section 355 of title 21 for use in humans.

(2) Bureau of Land Management sales

Notwithstanding the Materials Act of 1947 (30 U.S.C. 601–604), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Act of August 28, 1937 (43 U.S.C. 1181a–1181f), the Secretary of the Interior may negotiate sales of Pacific yew on lands under the jurisdiction of the Bureau of Land Management at not less than appraised value, to parties manufacturing taxol in the United States in accordance with section 355 of title 21 for use in humans.

(3) Disposition of unutilized material

The Secretary concerned shall, to the extent practicable, make material unutilized by purchasers of Pacific yew available to others.

(4) Limits on other sales

Except as provided in paragraphs (1), (2), and (3), the Secretary concerned shall not sell Pacific yew for commercial use.

(5) Use of receipts

The Secretary concerned may use amounts received from the sale of Pacific yew under

this section to pay the costs incurred by the Secretary concerned associated with the harvest and sale of Pacific yew.

(c) Record keeping

The Secretary concerned shall keep accurate records of all sales, bark removal, or other harvest of the Pacific yew. The records shall include the following information:

(1) The date of sale (where applicable) and the date of harvest.

(2) The names of the persons performing the harvest.

(3) The record of authorization for the harvest.

(4) The location and size of the area in which the harvest occurred.

(5) The quantity of Pacific yew harvested, including, to the extent practicable, the number of trees harvested, volume of bark harvested, and weight of bark harvested.

(d) Effect on prior sales

With respect to Pacific yew harvested before August 7, 1992, on lands under the jurisdiction of the Forest Service or the Bureau of Land Management, the Secretary concerned may permit taxol derived from that Pacific yew to be used for purposes other than research if the Secretary of Health and Human Services certifies to the Secretary concerned that such permission—

(1) will increase patient access to taxol treatment; and

(2) will not result in insufficient supplies of taxol for clinical research.

(Pub. L. 102–335, § 5, Aug. 7, 1992, 106 Stat. 861.)

REFERENCES IN TEXT

The Materials Act of 1947, referred to in subsec. (b)(2), is act July 31, 1947, ch. 406, 61 Stat. 681, as amended, which is classified generally to subchapter I (§ 601 et seq.) of chapter 15 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 30 and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (b)(2), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

Act of August 28, 1937, referred to in subsec. (b)(2), is act Aug. 28, 1937, ch. 876, 50 Stat. 874, as amended, which is classified to sections 1181a to 1181f of Title 43. For complete classification of this Act to the Code, see Tables.

§ 4805. Relation to other laws

Nothing in this chapter shall be interpreted as modifying the provisions of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), except as explicitly provided in section 4802 of this title.

(Pub. L. 102–335, § 6, Aug. 7, 1992, 106 Stat. 862.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in text, is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The Federal Land Policy and Management Act of 1976, referred to in text, is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Endangered Species Act of 1973, referred to in text, is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

§ 4806. Report to Congress

Not later than one year after August 7, 1992 (and annually thereafter), each Secretary concerned shall submit to the Committee on Merchant Marine and Fisheries, the Committee on Natural Resources, and the Committee on Agriculture of the House of Representatives, and the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the following:

(1) A judgment as to whether sufficient amounts of Pacific yew have been harvested, and can continue to be harvested for the next year, to supply necessary amounts of taxol required for medicinal purposes, together with a summary of the information on which the judgment is based.

(2) The results of the Pacific yew inventory required by section 4802(d) of this title.

(Pub. L. 102–335, § 7, Aug. 7, 1992, 106 Stat. 862; Pub. L. 103–437, § 6(d)(43), Nov. 2, 1994, 108 Stat. 4585.)

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''Committee on''.

CHANGE OF NAME

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4807 of this title.

§ 4807. Expiration of requirements

The Secretary of Health and Human Services shall determine when quantities of taxol suffi-

cient to satisfy medicinal demands are available from sources other than Pacific yew trees harvested on Federal lands and notify each Secretary concerned upon making such determination. If the Secretaries concerned concur, they shall jointly notify the relevant congressional committees, as listed in section 4806 of this title, at which time the requirements of this chapter shall expire.

(Pub. L. 102–335, § 8, Aug. 7, 1992, 106 Stat. 862.)

CHAPTER 69—WILD EXOTIC BIRD CONSERVATION

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§ 4901. Findings

The Congress finds the following:

(1) In addition to habitat loss and local use, the international pet trade in wild-caught exotic birds is contributing to the decline of species in the wild, and the mortality associated with the trade remains unacceptably high.

(2) The United States, as the world's largest importer of exotic birds and as a Party to the Convention, should play a substantial role in finding effective solutions to these problems, including assisting countries of origin in implementing programs of wild bird conservation, and ensuring that the market in the United States for exotic birds does not operate to the detriment of the survival of species in the wild.

(3) Sustainable utilization of exotic birds has the potential to create economic value in them and their habitats, which will contribute to their conservation and promote the maintenance of biological diversity generally.

(4) Utilization of exotic birds that is not sustainable should not be allowed.

(5) Broad international attention has focused on the serious conservation and welfare problems which currently exist in the trade in wild-caught animals, including exotic birds.

(6) Many countries have chosen not to export their wild birds for the pet trade. Their decisions should be respected and their efforts should be supported.

(7) Several countries that allow for the export of their wild birds often lack the means to develop or effectively implement scientifically based management plans, and these countries should be assisted in developing and implementing management plans to enable them to ensure that their wild bird trade is conducted humanely and at sustainable levels.

(8) The major exotic bird exporting countries are Parties to the Convention.

(9) The Convention recognizes that trade in species that are threatened with extinction, or that may become so, should be subject to strict regulation.

(10) The necessary population assessments, monitoring programs, and appropriate remedial measures for species listed in Appendix II of the Convention are not always being undertaken in order to maintain species at levels above which they might become eligible for inclusion in Appendix I of the Convention.

(11) Resolutions adopted pursuant to the Convention recommend that the Parties to the Convention take appropriate measures regarding trade in species of exotic birds that have significantly high mortality rates in transport, including suspension of trade for commercial purposes between Parties when appropriate.

(12) Article XIV provides that the Convention in no way affects the right of any Party to the Convention to adopt stricter domestic measures for the regulation of trade in all species, whether or not listed in an Appendix to the Convention.

(13) The United States prohibits the export of all birds native to the United States that are caught in the wild.

(14) This chapter provides a series of nondiscriminatory measures that are necessary for the conservation of exotic birds, and furthers the obligations of the United States under the Convention.

(Pub. L. 102–440, title I, § 102, Oct. 23, 1992, 106 Stat. 2224.)

SHORT TITLE

Section 101 of title I of Pub. L. 102–440 provided that: ''This title [enacting this chapter] may be cited as the 'Wild Bird Conservation Act of 1992'.''