

(5) Coral reef ecosystem

The term “coral reef ecosystem” means coral and other species of reef organisms (including reef plants) associated with coral reefs, and the nonliving environmental factors that directly affect coral reefs, that together function as an ecological unit in nature.

(6) Coral products

The term “coral products” means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

(7) Secretary

The term “Secretary” means the Secretary of Commerce.

(8) State

The term “State” means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

(Pub. L. 106-562, title II, §210, Dec. 23, 2000, 114 Stat. 2805.)

REFERENCES IN TEXT

The National Marine Sanctuaries Act, referred to in par. (2), is title III of Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1061, as amended, which is classified generally to chapter 32 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (2), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

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§ 6501. Purposes

The purposes of this chapter are—

(1) to reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects;

(2) to authorize grant programs to improve the commercial value of forest biomass (that otherwise contributes to the risk of catastrophic fire or insect or disease infestation) for producing electric energy, useful heat, transportation fuel, and petroleum-based product substitutes, and for other commercial purposes;

(3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;

(4) to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health;

(5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and

(6) to protect, restore, and enhance forest ecosystem components—

(A) to promote the recovery of threatened and endangered species;

(B) to improve biological diversity; and

(C) to enhance productivity and carbon sequestration.

(Pub. L. 108-148, §2, Dec. 3, 2003, 117 Stat. 1888.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 108-148, Dec. 3, 2003, 117 Stat. 1887, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 108-148, §1(a), Dec. 3, 2003, 117 Stat. 1887, provided that: “This Act [enacting this chapter and section 2103b of this title and amending sections 6601, 8606, and 8609 of Title 7, Agriculture] may be cited as the ‘Healthy Forests Restoration Act of 2003’.”

§ 6502. Definitions

In this chapter:

(1) Federal land

The term “Federal land” means—

(A) land of the National Forest System (as defined in section 1609(a) of this title) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 1702 of title 43), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) Indian tribe

The term “Indian tribe” has the meaning given the term in section 450b of title 25.

(Pub. L. 108-148, § 3, Dec. 3, 2003, 117 Stat. 1888.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 108-148, Dec. 3, 2003, 117 Stat. 1887, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of this title and Tables.

SUBCHAPTER I—HAZARDOUS FUEL
REDUCTION ON FEDERAL LAND**§ 6511. Definitions**

In this subchapter:

(1) At-risk community

The term “at-risk community” means an area—

(A) that is comprised of—

(i) an interface community as defined in the notice entitled “Wildland Urban Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire” issued by the Secretary of Agriculture and the Secretary of the Interior in accordance with title IV of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 1009) (66 Fed. Reg. 753, January 4, 2001); or

(ii) a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) within or adjacent to Federal land;

(B) in which conditions are conducive to a large-scale wildland fire disturbance event; and

(C) for which a significant threat to human life or property exists as a result of a wildland fire disturbance event.

(2) Authorized hazardous fuel reduction project

The term “authorized hazardous fuel reduction project” means the measures and methods described in the definition of “appropriate tools” contained in the glossary of the Implementation Plan, on Federal land described in section 6512(a) of this title and conducted under sections 6513 and 6514 of this title.

(3) Community wildfire protection plan

The term “community wildfire protection plan” means a plan for an at-risk community that—

(A) is developed within the context of the collaborative agreements and the guidance established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State agency responsible for forest management, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;

(B) identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect 1 or more at-risk communities and essential infrastructure; and

(C) recommends measures to reduce structural ignitability throughout the at-risk community.

(4) Condition class 2

The term “condition class 2”, with respect to an area of Federal land, means the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled “Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management” (RMRS-87), dated April 2000 (including any subsequent revision to the report), under which—

(A) fire regimes on the land have been moderately altered from historical ranges;

(B) there exists a moderate risk of losing key ecosystem components from fire;

(C) fire frequencies have increased or decreased from historical frequencies by 1 or more return intervals, resulting in moderate changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been moderately altered from the historical range of the attributes.

(5) Condition class 3

The term “condition class 3”, with respect to an area of Federal land, means the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (4) (including any subsequent revision to the report), under which—

(A) fire regimes on land have been significantly altered from historical ranges;

(B) there exists a high risk of losing key ecosystem components from fire;

(C) fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been significantly altered from the historical range of the attributes.

(6) Day

The term “day” means—

- (A) a calendar day; or
- (B) if a deadline imposed by this subchapter would expire on a nonbusiness day, the end of the next business day.

(7) Decision document

The term “decision document” means—

- (A) a decision notice (as that term is used in the Forest Service Handbook);
- (B) a decision record (as that term is used in the Bureau of Land Management Handbook); and
- (C) a record of decision (as that term is used in applicable regulations of the Council on Environmental Quality).

(8) Fire regime I

The term “fire regime I” means an area—

- (A) in which historically there have been low-severity fires with a frequency of 0 through 35 years; and
- (B) that is located primarily in low elevation forests of pine, oak, or pinyon juniper.

(9) Fire regime II

The term “fire regime II” means an area—

- (A) in which historically there are stand replacement severity fires with a frequency of 0 through 35 years; and
- (B) that is located primarily in low- to mid-elevation rangeland, grassland, or shrubland.

(10) Fire regime III

The term “fire regime III” means an area—

- (A) in which historically there are mixed severity fires with a frequency of 35 through 100 years; and
- (B) that is located primarily in forests of mixed conifer, dry Douglas fir, or wet Ponderosa pine.

(11) Implementation Plan

The term “Implementation Plan” means the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the conference report to accompany the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report No. 106-64) (and subsequent revisions).

(12) Municipal water supply system

The term “municipal water supply system” means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water.

(13) Resource management plan

The term “resource management plan” means—

- (A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in section 6502(1)(A) of this title under section 1604 of this title; or

- (B) a land use plan prepared for 1 or more units of the public land described in section 6502(1)(B) of this title under section 1712 of title 43.

(14) Secretary

The term “Secretary” means—

- (A) the Secretary of Agriculture, with respect to land of the National Forest System described in section 6502(1)(A) of this title; and
- (B) the Secretary of the Interior, with respect to public lands described in section 6502(1)(B) of this title.

(15) Threatened and endangered species habitat

The term “threatened and endangered species habitat” means Federal land identified in—

- (A) a determination that a species is an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
- (B) a designation of critical habitat of the species under that Act; or
- (C) a recovery plan prepared for the species under that Act.

(16) Wildland-urban interface

The term “wildland-urban interface” means—

- (A) an area within or adjacent to an at-risk community that is identified in recommendations to the Secretary in a community wildfire protection plan; or
- (B) in the case of any area for which a community wildfire protection plan is not in effect—
 - (i) an area extending ½-mile from the boundary of an at-risk community;
 - (ii) an area within 1½ miles of the boundary of an at-risk community, including any land that—
 - (I) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community;
 - (II) has a geographic feature that aids in creating an effective fire break, such as a road or ridge top; or
 - (III) is in condition class 3, as documented by the Secretary in the project-specific environmental analysis; and
 - (iii) an area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuel reduction to provide safer evacuation from the at-risk community.

(Pub. L. 108-148, title I, §101, Dec. 3, 2003, 117 Stat. 1889.)

REFERENCES IN TEXT

The Department of the Interior and Related Agencies Appropriations Act, 2001, referred to in pars. (1)(A)(i) and (11), is Pub. L. 106-291, Oct. 11, 2000, 114 Stat. 922. Title IV of the act is not classified to the Code. For complete classification of this Act to the Code, see Tables.

The Endangered Species Act of 1973, referred to in par. (15), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally 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.

§ 6512. Authorized hazardous fuel reduction projects

(a) Authorized projects

As soon as practicable after December 3, 2003, the Secretary shall implement authorized hazardous fuel reduction projects, consistent with the Implementation Plan, on—

(1) Federal land in wildland-urban interface areas;

(2) condition class 3 Federal land, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(3) condition class 2 Federal land located within fire regime I, fire regime II, or fire regime III, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(4) Federal land on which windthrow or blowdown, ice storm damage, the existence of an epidemic of disease or insects, or the presence of such an epidemic on immediately adjacent land and the imminent risk it will spread, poses a significant threat to an ecosystem component, or forest or rangeland resource, on the Federal land or adjacent non-Federal land; and

(5) Federal land not covered by paragraphs (1) through (4) that contains threatened and endangered species habitat, if—

(A) natural fire regimes on that land are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in a species recovery plan prepared under section 1533 of this title, or a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat;

(B) the authorized hazardous fuel reduction project will provide enhanced protection from catastrophic wildfire for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(C) the Secretary complies with any applicable guidelines specified in any management or recovery plan described in subparagraph (A).

(b) Relation to agency plans

An authorized hazardous fuel reduction project shall be conducted consistent with the

resource management plan and other relevant administrative policies or decisions applicable to the Federal land covered by the project.

(c) Acreage limitation

Not more than a total of 20,000,000 acres of Federal land may be treated under authorized hazardous fuel reduction projects.

(d) Exclusion of certain Federal land

The Secretary may not conduct an authorized hazardous fuel reduction project that would occur on—

(1) a component of the National Wilderness Preservation System;

(2) Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress or Presidential proclamation (including the applicable implementation plan); or

(3) a Wilderness Study Area.

(e) Old growth stands

(1) Definitions

In this subsection and subsection (f):

(A) Applicable period

The term “applicable period” means—

(i) the 2-year period beginning on December 3, 2003; or

(ii) in the case of a resource management plan that the Secretary is in the process of revising as of December 3, 2003, the 3-year period beginning on December 3, 2003.

(B) Covered project

The term “covered project” means an authorized hazardous fuel reduction project carried out on land described in paragraph (1), (2), (3), or (5) of subsection (a).

(C) Management direction

The term “management direction” means definitions, designations, standards, guidelines, goals, or objectives established for an old growth stand under a resource management plan developed in accordance with applicable law, including section 1604(g)(3)(B) of this title.

(D) Old growth stand

The term “old growth stand” has the meaning given the term under management direction used pursuant to paragraphs (3) and (4), based on the structure and composition characteristic of the forest type, and in accordance with applicable law, including section 1604(g)(3)(B) of this title.

(2) Project requirements

In carrying out a covered project, the Secretary shall fully maintain, or contribute toward the restoration of, the structure and composition of old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure.

(3) Newer management direction

(A) In general

If the management direction for an old growth stand was established on or after De-

ember 15, 1993, the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project by implementing the management direction.

(B) Amendments or revisions

Any amendment or revision to management direction for which final administrative approval is granted after December 3, 2003, shall be consistent with paragraph (2) for the purpose of carrying out covered projects.

(4) Older management direction

(A) In general

If the management direction for an old growth stand was established before December 15, 1993, the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project during the applicable period by implementing the management direction.

(B) Review required

Subject to subparagraph (C), during the applicable period for management direction referred to in subparagraph (A), the Secretary shall—

(i) review the management direction for affected covered projects, taking into account any relevant scientific information made available since the adoption of the management direction; and

(ii) amend the management direction for affected covered projects to be consistent with paragraph (2), if necessary to reflect relevant scientific information the Secretary did not consider in formulating the management direction.

(C) Review not completed

If the Secretary does not complete the review of the management direction in accordance with subparagraph (B) before the end of the applicable period, the Secretary shall not carry out any portion of affected covered projects in stands that are identified as old growth stands (based on substantial supporting evidence) by any person during scoping, within the period—

(i) beginning at the close of the applicable period for the management direction governing the affected covered projects; and

(ii) ending on the earlier of—

(I) the date the Secretary completes the action required by subparagraph (B) for the management direction applicable to the affected covered projects; or

(II) the date on which the acreage limitation specified in subsection (c) (as that limitation may be adjusted by a subsequent Act of Congress) is reached.

(5) Limitation to covered projects

Nothing in this subsection requires the Secretary to revise or otherwise amend a resource management plan to make the project requirements of paragraph (2) apply to an activity other than a covered project.

(f) Large tree retention

(1) In general

Except in old growth stands where the management direction is consistent with sub-

section (e)(2), the Secretary shall carry out a covered project in a manner that—

(A) focuses largely on small diameter trees, thinning, strategic fuel breaks, and prescribed fire to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(B) maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands.

(2) Wildfire risk

Nothing in this subsection prevents achievement of the purposes described in section 6501(1) of this title.

(g) Monitoring and assessing forest and rangeland health

(1) In general

For each Forest Service administrative region and each Bureau of Land Management State Office, the Secretary shall—

(A) monitor the results of a representative sample of the projects authorized under this subchapter for each management unit; and

(B) not later than 5 years after December 3, 2003, and each 5 years thereafter, issue a report that includes—

(i) an evaluation of the progress towards project goals; and

(ii) recommendations for modifications to the projects and management treatments.

(2) Consistency of projects with recommendations

An authorized hazardous fuel reduction project approved following the issuance of a monitoring report shall, to the maximum extent practicable, be consistent with any applicable recommendations in the report.

(3) Similar vegetation types

The results of a monitoring report shall be made available for use (if appropriate) in an authorized hazardous fuels reduction project conducted in a similar vegetation type on land under the jurisdiction of the Secretary.

(4) Monitoring and assessments

Monitoring and assessment shall include a description of the changes in condition class, using the Fire Regime Condition Class Guidebook or successor guidance, specifically comparing end results to—

(A) pretreatment conditions;

(B) historical fire regimes; and

(C) any applicable watershed or landscape goals or objectives in the resource management plan or other relevant direction.

(5) Multiparty monitoring

(A) In general

In an area where significant interest is expressed in multiparty monitoring, the Secretary shall establish a multiparty monitoring, evaluation, and accountability process in order to assess the positive or negative ecological and social effects of authorized

hazardous fuel reduction projects and projects conducted pursuant to section 6554 of this title.

(B) Diverse stakeholders

The Secretary shall include diverse stakeholders (including interested citizens and Indian tribes) in the process required under subparagraph (A).

(C) Funding

Funds to carry out this paragraph may be derived from operations funds for projects described in subparagraph (A).

(6) Collection of monitoring data

The Secretary may collect monitoring data by entering into cooperative agreements or contracts with, or providing grants to, small or micro-businesses, cooperatives, nonprofit organizations, Youth Conservation Corps work crews, or related State, local, and other non-Federal conservation corps.

(7) Tracking

For each administrative unit, the Secretary shall track acres burned, by the degree of severity, by large wildfires (as defined by the Secretary).

(8) Monitoring and maintenance of treated areas

The Secretary shall, to the maximum extent practicable, develop a process for monitoring the need for maintenance of treated areas, over time, in order to preserve the forest health benefits achieved.

(Pub. L. 108–148, title I, §102, Dec. 3, 2003, 117 Stat. 1892.)

§ 6513. Prioritization

(a) In general

In accordance with the Implementation Plan, the Secretary shall develop an annual program of work for Federal land that gives priority to authorized hazardous fuel reduction projects that provide for the protection of at-risk communities or watersheds or that implement community wildfire protection plans.

(b) Collaboration

(1) In general

The Secretary shall consider recommendations under subsection (a) that are made by at-risk communities that have developed community wildfire protection plans.

(2) Exemption

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the planning process and recommendations concerning community wildfire protection plans.

(c) Administration

(1) In general

Federal agency involvement in developing a community wildfire protection plan, or a recommendation made in a community wildfire protection plan, shall not be considered a Federal agency action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Compliance

In implementing authorized hazardous fuel reduction projects on Federal land, the Secretary shall, in accordance with section 6514 of this title, comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) Funding allocation

(1) Federal land

(A) In general

Subject to subparagraph (B), the Secretary shall use not less than 50 percent of the funds allocated for authorized hazardous fuel reduction projects in the wildland-urban interface.

(B) Applicability and allocation

The funding allocation in subparagraph (A) shall apply at the national level. The Secretary may allocate the proportion of funds differently than is required under subparagraph (A) within individual management units as appropriate, in particular to conduct authorized hazardous fuel reduction projects on land described in section 6512(a)(4) of this title.

(C) Wildland-urban interface

In the case of an authorized hazardous fuel reduction project for which a decision notice is issued during the 1-year period beginning on December 3, 2003, the Secretary shall use existing definitions of the term “wildland-urban interface” rather than the definition of that term provided under section 6511 of this title.

(2) Non-Federal land

(A) In general

In providing financial assistance under any provision of law for hazardous fuel reduction projects on non-Federal land, the Secretary shall consider recommendations made by at-risk communities that have developed community wildfire protection plans.

(B) Priority

In allocating funding under this paragraph, the Secretary should, to the maximum extent practicable, give priority to communities that have adopted a community wildfire protection plan or have taken proactive measures to encourage willing property owners to reduce fire risk on private property.

(Pub. L. 108–148, title I, §103, Dec. 3, 2003, 117 Stat. 1896.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6514. Environmental analysis

(a) Authorized hazardous fuel reduction projects

Except as otherwise provided in this subchapter, the Secretary shall conduct authorized hazardous fuel reduction projects in accordance with—

- (1) the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]; and
- (2) other applicable laws.

(b) Environmental assessment or environmental impact statement

The Secretary shall prepare an environmental assessment or an environmental impact statement pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for each authorized hazardous fuel reduction project.

(c) Consideration of alternatives

(1) In general

Except as provided in subsection (d), in the environmental assessment or environmental impact statement prepared under subsection (b), the Secretary shall study, develop, and describe—

- (A) the proposed agency action;
- (B) the alternative of no action; and
- (C) an additional action alternative, if the additional alternative—

(i) is proposed during scoping or the collaborative process under subsection (f); and

(ii) meets the purpose and need of the project, in accordance with regulations promulgated by the Council on Environmental Quality.

(2) Multiple additional alternatives

If more than 1 additional alternative is proposed under paragraph (1)(C), the Secretary shall—

- (A) select which additional alternative to consider, which is a choice that is in the sole discretion of the Secretary; and
- (B) provide a written record describing the reasons for the selection.

(d) Alternative analysis process for projects in wildland-urban interface

(1) Proposed agency action and 1 action alternative

For an authorized hazardous fuel reduction project that is proposed to be conducted in the wildland-urban interface, the Secretary is not required to study, develop, or describe more than the proposed agency action and 1 action alternative in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(2) Proposed agency action

Notwithstanding paragraph (1), but subject to paragraph (3), if an authorized hazardous fuel reduction project proposed to be conducted in the wildland-urban interface is located no further than 1½ miles from the boundary of an at-risk community, the Secretary is not required to study, develop, or de-

scribe any alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(3) Proposed agency action and community wildfire protection plan alternative

In the case of an authorized hazardous fuel reduction project described in paragraph (2), if the at-risk community has adopted a community wildfire protection plan and the proposed agency action does not implement the recommendations in the plan regarding the general location and basic method of treatments, the Secretary shall evaluate the recommendations in the plan as an alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(e) Public notice and meeting

(1) Public notice

The Secretary shall provide notice of each authorized hazardous fuel reduction project in accordance with applicable regulations and administrative guidelines.

(2) Public meeting

During the preparation stage of each authorized hazardous fuel reduction project, the Secretary shall—

(A) conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal land on which the authorized hazardous fuel reduction project will be conducted; and

(B) provide advance notice of the location, date, and time of the meeting.

(f) Public collaboration

In order to encourage meaningful public participation during preparation of authorized hazardous fuel reduction projects, the Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of each authorized fuel reduction project in a manner consistent with the Implementation Plan.

(g) Environmental analysis and public comment

In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines, the Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement for an authorized hazardous fuel reduction project.

(h) Decision document

The Secretary shall sign a decision document for authorized hazardous fuel reduction projects and provide notice of the final agency actions.

(Pub. L. 108-148, title I, §104, Dec. 3, 2003, 117 Stat. 1897.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1), is Pub. L. 91-190, Jan. 1, 1970,

83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6515. Special administrative review process

(a) Interim final regulations

(1) In general

Not later than 30 days after December 3, 2003, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process for the period described in paragraph (2) that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service land.

(2) Period

The predecisional administrative review process required under paragraph (1) shall occur during the period—

(A) beginning after the completion of the environmental assessment or environmental impact statement; and

(B) ending not later than the date of the issuance of the final decision approving the project.

(3) Eligibility

To be eligible to participate in the administrative review process for an authorized hazardous fuel reduction project under paragraph (1), a person shall submit to the Secretary, during scoping or the public comment period for the draft environmental analysis for the project, specific written comments that relate to the proposed action.

(4) Effective date

The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(b) Final regulations

The Secretary shall promulgate final regulations to establish the process described in subsection (a)(1) after the interim final regulations have been published and reasonable time has been provided for public comment.

(c) Administrative review

(1) In general

A person may bring a civil action challenging an authorized hazardous fuel reduction project in a Federal district court only if the person has challenged the authorized hazardous fuel reduction project by exhausting—

(A) the administrative review process established by the Secretary of Agriculture under this section; or

(B) the administrative hearings and appeals procedures established by the Department of the Interior.

(2) Issues

An issue may be considered in the judicial review of an action under section 6516 of this title only if the issue was raised in an administrative review process described in paragraph (1).

(3) Exception

(A) In general

An exception to the requirement of exhausting the administrative review process before seeking judicial review shall be available if a Federal court finds that the futility or inadequacy exception applies to a specific plaintiff or claim.

(B) Information

If an agency fails or is unable to make information timely available during the administrative review process, a court should evaluate whether the administrative review process was inadequate for claims or issues to which the information is material.

(Pub. L. 108–148, title I, §105, Dec. 3, 2003, 117 Stat. 1899.)

FOREST SERVICE PRE-DECISIONAL OBJECTION PROCESS

Pub. L. 112–74, div. E, title IV, §428, Dec. 23, 2011, 125 Stat. 1046, provided that: “Hereafter, upon issuance of final regulations, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall apply section 105(a) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6515(a)), providing for a pre-decisional objection process, to proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and documented with a Record of Decision or Decision Notice, in lieu of subsections (c), (d), and (e) of section 322 of Public Law 102–381 (16 U.S.C. 1612 note), providing for an administrative appeal process: *Provided*, That if the Chief of the Forest Service determines an emergency situation exists for which immediate implementation of a proposed action is necessary, the proposed action shall not be subject to the pre-decisional objection process, and implementation shall begin immediately after the Forest Service gives notice of the final decision for the proposed action: *Provided further*, That this section shall not apply to an authorized hazardous fuel reduction project under title I of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.) [probably should be 16 U.S.C. 6511 et seq.]”

§ 6516. Judicial review in United States district courts

(a) Venue

Notwithstanding section 1391 of title 28 or other applicable law, an authorized hazardous fuels reduction project conducted under this subchapter shall be subject to judicial review only in the United States district court for a district in which the Federal land to be treated under the authorized hazardous fuels reduction project is located.

(b) Expeditious completion of judicial review

In the judicial review of an action challenging an authorized hazardous fuel reduction project under subsection (a), Congress encourages a court of competent jurisdiction to expedite, to the maximum extent practicable, the proceedings in the action with the goal of rendering a final determination on jurisdiction, and (if jurisdiction exists) a final determination on the merits, as soon as practicable after the date on which a complaint or appeal is filed to initiate the action.

(c) Injunctions**(1) In general**

Subject to paragraph (2), the length of any preliminary injunctive relief and stays pending appeal covering an authorized hazardous fuel reduction project carried out under this subchapter shall not exceed 60 days.

(2) Renewal**(A) In general**

A court of competent jurisdiction may issue 1 or more renewals of any preliminary injunction, or stay pending appeal, granted under paragraph (1).

(B) Updates

In each renewal of an injunction in an action, the parties to the action shall present the court with updated information on the status of the authorized hazardous fuel reduction project.

(3) Balancing of short- and long-term effects

As part of its weighing the equities while considering any request for an injunction that applies to an agency action under an authorized hazardous fuel reduction project, the court reviewing the project shall balance the impact to the ecosystem likely affected by the project of—

(A) the short- and long-term effects of undertaking the agency action; against

(B) the short- and long-term effects of not undertaking the agency action.

(Pub. L. 108-148, title I, §106, Dec. 3, 2003, 117 Stat. 1900.)

§ 6517. Effect of subchapter**(a) Other authority**

Nothing in this subchapter affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority (including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) to conduct a hazardous fuel reduction project on Federal land (including Federal land identified in section 6512(d) of this title) that is not conducted using the process authorized by section 6514 of this title.

(b) National Forest System

For projects and activities of the National Forest System other than authorized hazardous fuel reduction projects, nothing in this subchapter affects, or otherwise biases, the notice, comment, and appeal procedures for projects and activities of the National Forest System contained in part 215 of title 36, Code of Federal Regulations, or the consideration or disposition of any legal action brought with respect to the procedures.

(Pub. L. 108-148, title I, §107, Dec. 3, 2003, 117 Stat. 1900.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to

the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6518. Authorization of appropriations

There is authorized to be appropriated \$760,000,000 for each fiscal year to carry out—

(1) activities authorized by this subchapter; and

(2) other hazardous fuel reduction activities of the Secretary, including making grants to States, local governments, Indian tribes, and other eligible recipients for activities authorized by law.

(Pub. L. 108-148, title I, §108, Dec. 3, 2003, 117 Stat. 1901.)

SUBCHAPTER II—BIOMASS

§ 6531. Biomass commercial utilization grant program**(a) In general**

In addition to any other authority of the Secretary of Agriculture to make grants to a person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuel, or substitutes for petroleum-based products, the Secretary may make grants to a person that owns or operates a facility that uses biomass for wood-based products or other commercial purposes to offset the costs incurred to purchase biomass.

(b) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2004 through 2008.

(Pub. L. 108-148, title II, §203, Dec. 3, 2003, 117 Stat. 1902.)

SUBCHAPTER III—WATERSHED FORESTRY ASSISTANCE

§ 6541. Findings and purposes**(a) Findings**

Congress finds that—

(1) there has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management;

(2) it is commonly recognized that the proper stewardship of forest land is essential to sustaining and restoring the health of watersheds;

(3) forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes forest restoration worthy of special focus; and

(4) strengthened education, technical assistance, and financial assistance for nonindustrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

(b) Purposes

The purposes of this subchapter are—

(1) to improve landowner and public understanding of the connection between forest management and watershed health;

(2) to encourage landowners to maintain tree cover on property and to use tree plantings and vegetative treatments as creative solutions to watershed problems associated with varying land uses;

(3) to enhance and complement forest management and buffer use for watersheds, with an emphasis on community watersheds;

(4) to establish new partnerships and collaborative watershed approaches to forest management, stewardship, and conservation;

(5) to provide technical and financial assistance to States to deliver a coordinated program that enhances State forestry best-management practices programs, and conserves and improves forested land and potentially forested land, through technical, financial, and educational assistance to qualifying individuals and entities; and

(6) to maximize the proper management and conservation of wetland forests and to assist in the restoration of those forests.

(Pub. L. 108-148, title III, §301, Dec. 3, 2003, 117 Stat. 1902.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original “this title”, meaning title III of Pub. L. 108-148, Dec. 3, 2003, 117 Stat. 1902, which enacted this subchapter and section 2103b of this title. For complete classification of title III to the Code, see Tables.

§ 6542. Tribal watershed forestry assistance

(a) In general

The Secretary of Agriculture (referred to in this section as the “Secretary”), acting through the Chief of the Forest Service, shall provide technical, financial, and related assistance to Indian tribes for the purpose of expanding tribal stewardship capacities and activities through tribal forestry best-management practices and other means at the tribal level to address watershed issues on land under the jurisdiction of or administered by the Indian tribes.

(b) Technical assistance to protect water quality

(1) In general

The Secretary, in cooperation with Indian tribes, shall develop a program to provide technical assistance to protect water quality, as described in paragraph (2).

(2) Purpose of program

The program under this subsection shall be designed—

(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, tribal, and local levels;

(B) to provide tribal forestry best-management practices and water quality technical assistance directly to Indian tribes;

(C) to provide technical guidance to tribal land managers and policy makers for water quality protection through forest management;

(D) to complement tribal efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal agencies and tribal entities charged with responsibility for water and watershed management; and

(E) to provide enhanced forest resource data and support for improved implementation and monitoring of tribal forestry best-management practices.

(c) Watershed forestry program

(1) In general

The Secretary shall establish a watershed forestry program in cooperation with Indian tribes.

(2) Programs and projects

Funds or other support provided under the program shall be made available for tribal forestry best-management practices programs and watershed forestry projects.

(3) Annual awards

The Secretary shall annually make awards to Indian tribes to carry out this subsection.

(4) Project elements and objectives

A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within land under the jurisdiction of or administered by an Indian tribe by demonstrating the value of trees and forests to watershed health and condition through—

(A) the use of trees as solutions to water quality problems;

(B) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

(C) watershed-scale forest management activities and conservation planning;

(D) the restoration of wetland and streamside forests and the establishment of riparian vegetative buffers; and

(E) tribal-based planning, involvement, and action through State, tribal, local, and nonprofit partnerships.

(5) Prioritization

An Indian tribe that participates in the program under this subsection shall prioritize watersheds in land under the jurisdiction of or administered by the Indian tribe to target watershed forestry projects funded under this subsection.

(6) Watershed forester

The Secretary may provide to Indian tribes under this section financial and technical assistance to establish a position of tribal forester to lead tribal programs and coordinate small watershed-level projects.

(d) Distribution

The Secretary shall devote—

(1) at least 75 percent of the funds made available for a fiscal year under subsection (e) to the program under subsection (c); and

(2) the remainder of the funds to deliver technical assistance, education, and planning in the field to Indian tribes.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$2,500,000 for each of fiscal years 2004 through 2008.

(Pub. L. 108-148, title III, §303, Dec. 3, 2003, 117 Stat. 1905.)

SUBCHAPTER IV—INSECT INFESTATIONS
AND RELATED DISEASES

§ 6551. Findings and purpose

(a) Findings

Congress finds that—

(1) high levels of tree mortality resulting from insect infestation (including the interaction between insects and diseases) may result in—

- (A) increased fire risk;
- (B) loss of old trees and old growth;
- (C) loss of threatened and endangered species;
- (D) loss of species diversity;
- (E) degraded watershed conditions;
- (F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and
- (G) decreased timber values;

(2)(A) forest-damaging insects destroy hundreds of thousands of acres of trees each year;

(B) in the West, more than 21,000,000 acres are at high risk of forest-damaging insect infestation, and in the South, more than 57,000,000 acres are at risk across all land ownerships; and

(C) severe drought conditions in many areas of the South and West will increase the risk of forest-damaging insect infestations;

(3) the hemlock woolly adelgid is—

(A) destroying streamside forests throughout the mid-Atlantic and Appalachian regions;

(B) threatening water quality and sensitive aquatic species; and

(C) posing a potential threat to valuable commercial timber land in northern New England;

(4)(A) the emerald ash borer is a nonnative, invasive pest that has quickly become a major threat to hardwood forests because an emerald ash borer infestation is almost always fatal to affected trees; and

(B) the emerald ash borer pest threatens to destroy more than 692,000,000 ash trees in forests in Michigan and Ohio alone, and between 5 and 10 percent of urban street trees in the Upper Midwest;

(5)(A) epidemic populations of Southern pine beetles are ravaging forests in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; and

(B) in 2001, Florida and Kentucky experienced 146 percent and 111 percent increases, respectively, in Southern pine beetle populations;

(6) those epidemic outbreaks of Southern pine beetles have forced private landowners to harvest dead and dying trees, in rural areas and increasingly urbanized settings;

(7) according to the Forest Service, recent outbreaks of the red oak borer in Arkansas and Missouri have been unprecedented, with more than 1,000,000 acres infested at population levels never seen before;

(8) much of the damage from the red oak borer has taken place in national forests, and

the Federal response has been inadequate to protect forest ecosystems and other ecological and economic resources;

(9)(A) previous silvicultural assessments, while useful and informative, have been limited in scale and scope of application; and

(B) there have not been sufficient resources available to adequately test a full array of individual and combined applied silvicultural assessments;

(10) only through the full funding, development, and assessment of potential applied silvicultural assessments over specific time frames across an array of environmental and climatic conditions can the most innovative and cost effective management applications be determined that will help reduce the susceptibility of forest ecosystems to attack by forest pests;

(11)(A) often, there are significant interactions between insects and diseases;

(B) many diseases (such as white pine blister rust, beech bark disease, and many other diseases) can weaken trees and forest stands and predispose trees and forest stands to insect attack; and

(C) certain diseases are spread using insects as vectors (including Dutch elm disease and pine pitch canker); and

(12) funding and implementation of an initiative to combat forest pest infestations and associated diseases should not come at the expense of supporting other programs and initiatives of the Secretary.

(b) Purposes

The purposes of this subchapter are—

(1) to require the Secretary to develop an accelerated basic and applied assessment program to combat infestations by forest-damaging insects and associated diseases;

(2) to enlist the assistance of colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions), State agencies, and private landowners to carry out the program; and

(3) to carry out applied silvicultural assessments.

(Pub. L. 108-148, title IV, §401, Dec. 3, 2003, 117 Stat. 1907.)

§ 6552. Definitions

In this subchapter:

(1) Applied silvicultural assessment

(A) In general

The term “applied silvicultural assessment” means any vegetative or other treatment carried out for information gathering and research purposes.

(B) Inclusions

The term “applied silvicultural assessment” includes timber harvesting, thinning, prescribed burning, pruning, and any combination of those activities.

(2) 1890 Institution

(A) In general

The term “1890 Institution” means a college or university that is eligible to receive

funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.).

(B) Inclusion

The term “1890 Institution” includes Tuskegee University.

(3) Forest-damaging insect

The term “forest-damaging insect” means—

- (A) a Southern pine beetle;
- (B) a mountain pine beetle;
- (C) a spruce bark beetle;
- (D) a gypsy moth;
- (E) a hemlock woolly adelgid;
- (F) an emerald ash borer;
- (G) a red oak borer;
- (H) a white oak borer; and
- (I) such other insects as may be identified by the Secretary.

(4) Secretary

The term “Secretary” means—

- (A) the Secretary of Agriculture, acting through the Forest Service, with respect to National Forest System land; and
- (B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

(Pub. L. 108–148, title IV, §402, Dec. 3, 2003, 117 Stat. 1908.)

REFERENCES IN TEXT

The Act of August 30, 1890, referred to in par. (2)(A), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

§ 6553. Accelerated information gathering regarding forest-damaging insects

(a) Information gathering

The Secretary, acting through the Forest Service and United States Geological Survey, as appropriate, shall establish an accelerated program—

- (1) to plan, conduct, and promote comprehensive and systematic information gathering on forest-damaging insects and associated diseases, including an evaluation of—
 - (A) infestation prevention and suppression methods;
 - (B) effects of infestations and associated disease interactions on forest ecosystems;
 - (C) restoration of forest ecosystem efforts;
 - (D) utilization options regarding infested trees; and
 - (E) models to predict the occurrence, distribution, and impact of outbreaks of forest-damaging insects and associated diseases;
- (2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of forest-damaging insects and associated diseases on Federal land and State and private land; and

(3) to disseminate the results of the information gathering, treatments, and strategies.

(b) Cooperation and assistance

The Secretary shall—

- (1) establish and carry out the program in cooperation with—
 - (A) scientists from colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions);
 - (B) Federal, State, and local agencies; and
 - (C) private and industrial landowners; and
- (2) designate such colleges and universities to assist in carrying out the program.

(Pub. L. 108–148, title IV, §403, Dec. 3, 2003, 117 Stat. 1909.)

§ 6554. Applied silvicultural assessments

(a) Assessment efforts

For information gathering and research purposes, the Secretary may conduct applied silvicultural assessments on Federal land that the Secretary determines is at risk of infestation by, or is infested with, forest-damaging insects.

(b) Limitations

(1) Exclusion of certain areas

Subsection (a) does not apply to—

- (A) a component of the National Wilderness Preservation System;
- (B) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;
- (C) a congressionally-designated wilderness study area; or
- (D) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

(2) Certain treatment prohibited

Nothing in subsection (a) authorizes the application of insecticides in municipal watersheds or associated riparian areas.

(3) Peer review

(A) In general

Before being carried out, each applied silvicultural assessment under this subchapter shall be peer reviewed by scientific experts selected by the Secretary, which shall include non-Federal experts.

(B) Existing peer review processes

The Secretary may use existing peer review processes to the extent the processes comply with subparagraph (A).

(c) Public notice and comment

(1) Public notice

The Secretary shall provide notice of each applied silvicultural assessment proposed to be carried out under this section.

(2) Public comment

The Secretary shall provide an opportunity for public comment before carrying out an applied silviculture assessment under this section.

(d) Categorical exclusion**(1) In general**

Applied silvicultural assessment and research treatments carried out under this section on not more than 1,000 acres for an assessment or treatment may be categorically excluded from documentation in an environmental impact statement and environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Administration

Applied silvicultural assessments and research treatments categorically excluded under paragraph (1)—

(A) shall not be carried out in an area that is adjacent to another area that is categorically excluded under paragraph (1) that is being treated with similar methods; and

(B) shall be subject to the extraordinary circumstances procedures established by the Secretary pursuant to section 1508.4 of title 40, Code of Federal Regulations.

(3) Maximum categorical exclusion

The total number of acres categorically excluded under paragraph (1) shall not exceed 250,000 acres.

(4) No additional findings required

In accordance with paragraph (1), the Secretary shall not be required to make any findings as to whether an applied silvicultural assessment project, either individually or cumulatively, has a significant effect on the environment.

(Pub. L. 108-148, title IV, §404, Dec. 3, 2003, 117 Stat. 1910.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(1), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6555. Relation to other laws

The authority provided to each Secretary under this subchapter is supplemental to, and not in lieu of, any authority provided to the Secretaries under any other law.

(Pub. L. 108-148, title IV, §405, Dec. 3, 2003, 117 Stat. 1911.)

§ 6556. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter for each of fiscal years 2004 through 2008.

(Pub. L. 108-148, title IV, §406, Dec. 3, 2003, 117 Stat. 1911.)

SUBCHAPTER V—HEALTHY FORESTS
RESERVE PROGRAM**§ 6571. Establishment of healthy forests reserve program****(a) Establishment**

The Secretary of Agriculture shall establish the healthy forests reserve program for the pur-

pose of restoring and enhancing forest ecosystems—

- (1) to promote the recovery of threatened and endangered species;
- (2) to improve biodiversity; and
- (3) to enhance carbon sequestration.

(b) Coordination

The Secretary of Agriculture shall carry out the healthy forests reserve program in coordination with the Secretary of the Interior and the Secretary of Commerce.

(Pub. L. 108-148, title V, §501, Dec. 3, 2003, 117 Stat. 1911.)

§ 6572. Eligibility and enrollment of lands in program**(a) In general**

The Secretary of Agriculture, in coordination with the Secretary of the Interior and the Secretary of Commerce, shall describe and define forest ecosystems that are eligible for enrollment in the healthy forests reserve program.

(b) Eligibility

To be eligible for enrollment in the healthy forests reserve program, land shall be—

- (1) private land the enrollment of which will restore, enhance, or otherwise measurably increase the likelihood of recovery of a species listed as endangered or threatened under section 1533 of this title; and
- (2) private land the enrollment of which will restore, enhance, or otherwise measurably improve the well-being of species that—

(A) are not listed as endangered or threatened under section 1533 of this title; but

(B) are candidates for such listing, State-listed species, or special concern species.

(c) Other considerations

In enrolling land that satisfies the criteria under subsection (b), the Secretary of Agriculture shall give additional consideration to land the enrollment of which will—

- (1) improve biological diversity; and
- (2) increase carbon sequestration.

(d) Enrollment by willing owners

The Secretary of Agriculture shall enroll land in the healthy forests reserve program only with the consent of the owner of the land.

(e) Methods of enrollment**(1) Authorized methods**

Land may be enrolled in the healthy forests reserve program in accordance with—

- (A) a 10-year cost-share agreement;
- (B) a 30-year easement; or
- (C)(i) a permanent easement; or

(ii) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under State law.

(2) Limitation on use of cost-share agreements and easements**(A) In general**

Of the total amount of funds expended under the program for a fiscal year to acquire easements and enter into cost-share agreements described in paragraph (1)—

(i) not more than 40 percent shall be used for cost-share agreements described in paragraph (1)(A); and

(ii) not more than 60 percent shall be used for easements described in subparagraphs (B) and (C) of paragraph (1).

(B) Repooling

The Secretary may use any funds allocated under clause (i) or (ii) of subparagraph (A) that are not obligated by April 1 of the fiscal year for which the funds are made available to carry out a different method of enrollment during that fiscal year.

(3) Acreage owned by Indian tribes

In the case of acreage owned by an Indian tribe, the Secretary may enroll acreage into the healthy forests reserve program through the use of—

(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

(B) a 10-year cost-share agreement; or

(C) any combination of the options described in subparagraphs (A) and (B).

(f) Enrollment priority

(1) Species

The Secretary of Agriculture shall give priority to the enrollment of land that provides the greatest conservation benefit to—

(A) primarily, species listed as endangered or threatened under section 1533 of this title; and

(B) secondarily, species that—

(i) are not listed as endangered or threatened under section 1533 of this title; but

(ii) are candidates for such listing, State-listed species, or special concern species.

(2) Cost-effectiveness

The Secretary of Agriculture shall also consider the cost-effectiveness of each agreement or easement, and associated restoration plans, so as to maximize the environmental benefits per dollar expended.

(Pub. L. 108-148, title V, §502, Dec. 3, 2003, 117 Stat. 1911; Pub. L. 110-234, title VIII, §8205(a), May 22, 2008, 122 Stat. 1294; Pub. L. 110-246, §4(a), title VIII, §8205(a), June 18, 2008, 122 Stat. 1664, 2056.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsecs. (e) to (g). Pub. L. 110-246, §8205(a), added subsec. (e), redesignated subsec. (g) as (f), and struck out former subsecs. (e) and (f) which related to maximum number of enrolled acres and methods of enrollment.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 6573. Restoration plans

(a) In general

Land enrolled in the healthy forests reserve program shall be subject to a restoration plan, to be developed jointly by the landowner and the Secretary of Agriculture, in coordination with the Secretary of¹ Interior.

(b) Practices

The restoration plan shall require such restoration practices as are necessary to restore and enhance habitat for—

(1) species listed as endangered or threatened under section 1533 of this title; and

(2) animal or plant species before the species reach threatened or endangered status, such as candidate, State-listed species, and special concern species.

(Pub. L. 108-148, title V, §503, Dec. 3, 2003, 117 Stat. 1912.)

§ 6574. Financial assistance

(a) Permanent easements

In the case of land enrolled in the healthy forests reserve program using a permanent easement (or an easement described in section 6572(f)(1)(C)(ii)¹ of this title), the Secretary of Agriculture shall pay the owner of the land an amount equal to not less than 75 percent, nor more than 100 percent, of (as determined by the Secretary)—

(1) the fair market value of the enrolled land during the period the land is subject to the easement, less the fair market value of the land encumbered by the easement; and

(2) the actual costs of the approved conservation practices or the average cost of approved practices carried out on the land during the period in which the land is subject to the easement.

(b) Thirty-year easement

In the case of land enrolled in the healthy forests reserve program using a 30-year easement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 75 percent of the fair market value of the land, less the fair market value of the land encumbered by the easement; and

(2) 75 percent of the actual costs of the approved conservation practices or 75 percent of the average cost of approved practices.

(c) Ten-year agreement

In the case of land enrolled in the healthy forests reserve program using a 10-year cost-share agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) fifty percent of the actual costs of the approved conservation practices; or

(2) fifty percent of the average cost of approved practices.

(d) Acceptance of contributions

The Secretary of Agriculture may accept and use contributions of non-Federal funds to make payments under this section.

¹ So in original. Probably should be “of the”.

¹ So in original. Probably should be “6572(e)(1)(C)(ii)”.

(Pub. L. 108–148, title V, §504, Dec. 3, 2003, 117 Stat. 1913; Pub. L. 110–234, title VIII, §8205(b), May 22, 2008, 122 Stat. 1295; Pub. L. 110–246, §4(a), title VIII, §8205(b), June 18, 2008, 122 Stat. 1664, 2057.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, §8205(b), substituted “Permanent easements” for “Easements of not more than 99 years” in heading and “a permanent easement (or an easement described in section 6572(f)(1)(C)(ii) of this title)” for “an easement of not more than 99 years described in section 6572(f)(1)(C) of this title” in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 6575. Technical assistance

(a) In general

The Secretary of Agriculture shall provide landowners with technical assistance to assist the owners in complying with the terms of plans (as included in agreements or easements) under the healthy forests reserve program.

(b) Technical service providers

The Secretary of Agriculture may request the services of, and enter into cooperative agreements with, individuals or entities certified as technical service providers under section 3842 of this title, to assist the Secretary in providing technical assistance necessary to develop and implement the healthy forests reserve program.

(Pub. L. 108–148, title V, §505, Dec. 3, 2003, 117 Stat. 1913.)

§ 6576. Protections and measures

(a) Protections

In the case of a landowner that enrolls land in the program and whose conservation activities result in a net conservation benefit for listed, candidate, or other species, the Secretary of Agriculture shall make available to the landowner safe harbor or similar assurances and protection under—

- (1) section 1536(b)(4) of this title; or
- (2) section 1539(a)(1) of this title.

(b) Measures

If protection under subsection (a) requires the taking of measures that are in addition to the measures covered by the applicable restoration plan agreed to under section 6573 of this title, the cost of the additional measures, as well as the cost of any permit, shall be considered part of the restoration plan for purposes of financial assistance under section 6574 of this title.

(Pub. L. 108–148, title V, §506, Dec. 3, 2003, 117 Stat. 1914.)

§ 6577. Involvement by other agencies and organizations

In carrying out this subchapter, the Secretary of Agriculture may consult with—

- (1) nonindustrial private forest landowners;
- (2) other Federal agencies;
- (3) State fish and wildlife agencies;
- (4) State forestry agencies;
- (5) State environmental quality agencies;
- (6) other State conservation agencies; and
- (7) nonprofit conservation organizations.

(Pub. L. 108–148, title V, §507, Dec. 3, 2003, 117 Stat. 1914.)

§ 6578. Funding

(a) In general

Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available \$9,750,000 for each of fiscal years 2009 through 2012 to carry out this subchapter.

(b) Duration of availability

The funds made available under subsection (a) shall remain available until expended.

(Pub. L. 108–148, title V, §508, Dec. 3, 2003, 117 Stat. 1914; Pub. L. 110–234, title VIII, §8205(c), May 22, 2008, 122 Stat. 1295; Pub. L. 110–246, §4(a), title VIII, §8205(c), June 18, 2008, 122 Stat. 1664, 2057.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, §8205(c), amended section generally. Prior to amendment, text read as follows: “There are authorized to be appropriated to carry out this subchapter—

- “(1) \$25,000,000 for fiscal year 2004; and
- “(2) such sums as are necessary for each of fiscal years 2005 through 2008.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SUBCHAPTER VI—MISCELLANEOUS

§ 6591. Forest stands inventory and monitoring program to improve detection of and response to environmental threats

(a) In general

The Secretary of Agriculture shall carry out a comprehensive program to inventory, monitor, characterize, assess, and identify forest stands (with emphasis on hardwood forest stands) and potential forest stands—

- (1) in units of the National Forest System (other than those units created from the public domain); and
- (2) on private forest land, with the consent of the owner of the land.

(b) Issues to be addressed

In carrying out the program, the Secretary shall address issues including—

(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, and weather-related risks and other episodic events);

(2) loss or degradation of forests;

(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

(4) quantification of carbon uptake rates; and

(5) management practices that focus on preventing further forest degradation.

(c) Early warning system

In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

(1) isolate and treat a threat before the threat gets out of control; and

(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2004 through 2008.

(Pub. L. 108-148, title VI, § 601, Dec. 3, 2003, 117 Stat. 1914.)

**CHAPTER 85—MARINE TURTLE
CONSERVATION**

Sec.	
6601.	Findings and purposes.
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6607.	Report to Congress.

§ 6601. Findings and purposes

(a) Findings

The Congress finds that—

(1) marine turtle populations have declined to the point that the long-term survival of the loggerhead, green, hawksbill, Kemp's ridley, olive ridley, and leatherback turtle in the wild is in serious jeopardy;

(2) 6 of the 7 recognized species of marine turtles are listed as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all 7 species have been included in Appendix I of CITES;

(3) because marine turtles are long-lived, late-maturing, and highly migratory, marine turtles are particularly vulnerable to the impacts of human exploitation and habitat loss;

(4) illegal international trade seriously threatens wild populations of some marine turtle species, particularly the hawksbill turtle;

(5) the challenges facing marine turtles are immense, and the resources available have not been sufficient to cope with the continued loss of nesting habitats caused by human activities and the consequent diminution of marine turtle populations;

(6) because marine turtles are flagship species for the ecosystems in which marine turtles are found, sustaining healthy populations of marine turtles provides benefits to many other species of wildlife, including many other threatened or endangered species;

(7) marine turtles are important components of the ecosystems that they inhabit, and studies of wild populations of marine turtles have provided important biological insights;

(8) changes in marine turtle populations are most reliably indicated by changes in the numbers of nests and nesting females; and

(9) the reduction, removal, or other effective addressing of the threats to the long-term viability of populations of marine turtles will require the joint commitment and effort of—

(A) countries that have within their boundaries marine turtle nesting habitats; and

(B) persons with expertise in the conservation of marine turtles.

(b) Purpose

The purpose of this chapter is to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries by supporting and providing financial resources for projects to conserve the nesting habitats, conserve marine turtles in those habitats, and address other threats to the survival of marine turtles.

(Pub. L. 108-266, § 2, July 2, 2004, 118 Stat. 791.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (a)(2), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified principally 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.

SHORT TITLE

Pub. L. 108-266, §1, July 2, 2004, 118 Stat. 791, provided that: "This Act [enacting this chapter] may be cited as the 'Marine Turtle Conservation Act of 2004'."

§ 6602. Definitions

In this chapter:

(1) CITES

The term "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(2) Conservation

The term "conservation" means the use of all methods and procedures necessary to protect nesting habitats of marine turtles in foreign countries and of marine turtles in those habitats, including—

(A) protection, restoration, and management of nesting habitats;

(B) onsite research and monitoring of nesting populations, nesting habitats, annual reproduction, and species population trends;

(C) assistance in the development, implementation, and improvement of national and regional management plans for nesting habitat ranges;

(D) enforcement and implementation of CITES and laws of foreign countries to—