

16 USC Ch. 84: HEALTHY FOREST RESTORATION

From Title 16—CONSERVATION

CHAPTER 84—HEALTHY FOREST RESTORATION

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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.)

EDITORIAL NOTES

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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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'."

WILDFIRE HAZARD SEVERITY MAPPING FOR COMMUNITIES

Pub. L. 115–141, div. O, title II, §210, Mar. 23, 2018, 132 Stat. 1067, provided that:

"(a) MAP REQUIRED.—Not later than 2 years after the date of the enactment of this section [Mar. 23, 2018], the Secretary of Agriculture, acting through the Chief of the Forest Service, shall—

"(1) develop and publish a geospatial map appropriate for community-level use that depicts wildfire hazard severity to inform at-risk communities that are—

"(A) adjacent to National Forest System lands; or

"(B) affected by wildland fire, as determined by the Secretary; and

"(2) disseminate the information under paragraph (1) in an appropriate, web-based format for use by such communities to—

"(A) improve understanding of their risk profile;

"(B) clarify thinking on the nature and effect of wildfire risks; and

"(C) develop plans to manage and mitigate those risks.

"(b) PURPOSES OF MAP.—The purposes of the map required under subsection (a) are as follows:

"(1) To inform evaluations of wildfire risk.

"(2) To prioritize fuels management needs.

"(3) To depict the relative potential for wildfire that could be difficult for suppression resources to contain and that could cause ignitions to structures.

"(c) CONSULTATION.—In carrying out subsection (a), the Secretary of Agriculture and Chief of the Forest Service shall consult with—

"(1) the Secretary of the Interior;

"(2) the Administrator of the Federal Emergency Management Agency;

"(3) other appropriate Federal agencies;

"(4) States;

"(5) relevant colleges, universities, and institutions of higher education with relevant expertise;

and

"(6) other entities, as appropriate.

"(d) AT-RISK COMMUNITY DEFINED.—The term 'at-risk community' has the meaning given the term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511)."

EX. ORD. NO. 14072. STRENGTHENING THE NATION'S FORESTS, COMMUNITIES, AND LOCAL ECONOMIES

Ex. Ord. No. 14072, Apr. 22, 2022, 87 F.R. 24851, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. Strengthening America's forests, which are home to cherished expanses of mature and old-growth forests on Federal lands, is critical to the health, prosperity, and resilience of our communities—particularly in light of the threat of catastrophic wildfires. Forests provide clean air and water, sustain the plant and animal life fundamental to combating the global climate and biodiversity crises, and hold special importance to Tribal Nations. We go to these special places to hike, camp, hunt, fish, and engage in recreation that revitalizes our souls and connects us to history and nature. Many local economies thrive because of these outdoor and forest management activities, including in the sustainable forest product sector.

Globally, forests represent some of the most biodiverse parts of our planet and play an irreplaceable role in reaching net-zero greenhouse gas emissions. Terrestrial carbon sinks absorb around 30 percent of the carbon dioxide emitted by human activities each year. Here at home, America's forests absorb more than 10 percent of annual United States economy-wide greenhouse gas emissions. Conserving old-growth and mature forests on Federal lands while supporting and advancing climate-smart forestry and sustainable forest products is critical to protecting these and other ecosystem services provided by those forests.

Despite their importance, the world's forests are quickly disappearing; only a small fraction of the world's mature and old-growth forests remains. Here at home, the primary threats to forests, including mature and old-growth forests, include climate impacts, catastrophic wildfires, insect infestation, and disease. We can and must take action to conserve, restore, reforest, and manage our magnificent forests here at home and, working closely with international partners, throughout the world.

It is the policy of my Administration, in consultation with State, local, Tribal, and territorial governments, as well as the private sector, nonprofit organizations, labor unions, and the scientific community, to pursue science-based, sustainable forest and land management; conserve America's mature and old-growth forests on Federal lands; invest in forest health and restoration; support indigenous traditional ecological knowledge and cultural and subsistence practices; honor Tribal treaty rights; and deploy climate-smart forestry practices and other nature-based solutions to improve the resilience of our lands, waters, wildlife, and communities in the face of increasing disturbances and chronic stress arising from climate impacts. It is also the policy of my Administration, as outlined in *Conserving and Restoring America the Beautiful*, to support collaborative, locally led conservation solutions.

The Infrastructure Investment and Jobs Act (IIJA) [Pub. L. 117–58, see Tables for classification] I signed into law provides generational investments in ecosystem restoration and wildfire risk reduction. As we use this funding, we will seek opportunities, consistent with the IIJA, to conserve our mature and old-growth forests on Federal lands and restore the health and vibrancy of our Nation's forests by reducing the threat of catastrophic wildfires through ecological treatments that create resilient forest conditions using active, science-based forest management and prescribed fires; by incorporating indigenous traditional ecological knowledge; and by scaling up and optimizing climate-smart reforestation. My Administration also is committed to doing its part to combat deforestation around the world and to working with our international partners toward sustainable management of the world's lands, waters, and ocean.

SEC. 2. Restoring and Conserving the Nation's Forests, Including Mature and Old-Growth Forests. My Administration will manage forests on Federal lands, which include many mature and old-growth forests, to promote their continued health and resilience; retain and enhance carbon storage; conserve biodiversity; mitigate the risk of wildfires; enhance climate resilience; enable subsistence and cultural uses; provide outdoor recreational opportunities; and promote sustainable local economic development. Science-based reforestation is one of the greatest opportunities both globally and in the United States for the land sector to contribute to climate and biodiversity goals. To further conserve mature and old-growth forests and foster long-term United States forest health through climate-smart reforestation for the benefit of Americans today and for generations to come, the following actions shall be taken, in consultation with State, local, Tribal, and territorial governments and the public, and to the extent consistent with applicable law:

(a) The Secretary of the Interior and the Secretary of Agriculture (Secretaries)—the Federal Government's primary land managers—shall continue to jointly pursue wildfire mitigation strategies, which are already driving important actions to confront a pressing threat to mature and old-growth forests on Federal lands: catastrophic wildfires driven by decades of fire exclusion and climate change.

(b) The Secretary of the Interior, with respect to public lands managed by the Bureau of Land Management, and the Secretary of Agriculture, with respect to National Forest System lands, shall, within 1 year of the date of this order [Apr. 22, 2022], define, identify, and complete an inventory of old-growth and mature forests on Federal lands, accounting for regional and ecological variations, as appropriate, and shall make such inventory publicly available.

(c) Following completion of the inventory, the Secretaries shall:

(i) coordinate conservation and wildfire risk reduction activities, including consideration of climate-smart stewardship of mature and old-growth forests, with other executive departments and agencies (agencies), States, Tribal Nations, and any private landowners who volunteer to participate;

(ii) analyze the threats to mature and old-growth forests on Federal lands, including from wildfires and climate change; and

(iii) develop policies, with robust opportunity for public comment, to institutionalize climate-smart management and conservation strategies that address threats to mature and old-growth forests on Federal lands.

(d) The Secretaries, in coordination with the heads of other agencies as appropriate, shall within 1 year of the date of this order:

(i) develop a Federal goal that charges agencies to meet agency-specific reforestation targets by 2030, including an assessment of reforestation opportunities on Federal lands and through existing Federal programs and partnerships;

(ii) develop, in collaboration with Federal, State, Tribal, and private-sector partners, a climate-informed plan (building on existing efforts) to increase Federal cone and seed collection and to ensure seed and seedling nursery capacity is sufficient to meet anticipated reforestation demand; and

(iii) develop, in coordination with the Secretary of Commerce, with State, local, Tribal, and territorial governments, and with the private sector, nonprofit organizations, labor unions, and the scientific community, recommendations for community-led local and regional economic development opportunities to create and sustain jobs in the sustainable forest product sector, including innovative materials, and in outdoor recreation, while supporting healthy, sustainably managed forests in timber communities.

SEC. 3. Stopping International Deforestation. As described in the *Plan to Conserve Global Forests: Critical Carbon Sinks*, my Administration has committed to deliver, by 2030, on collective global goals to end natural forest loss and to restore at least an additional 200 million hectares of forests and other ecosystems, while showcasing new economic models that reflect the services provided by critical ecosystems around the world. The plan recognizes that conserving and restoring global forest and peatland ecosystems, particularly in the Amazon, Congo Basin, and Southeast Asia, can provide significant global greenhouse gas emissions mitigation, both by preventing the emissions caused by deforestation and by increasing the amount of carbon dioxide captured from the atmosphere and stored in soils and forest biomass. My Administration is also committed to combating illegal logging and stopping trade in illegally sourced wood products pursuant to the Lacey Act, as amended, [see] 16 U.S.C. 3371 *et seq.*, and to addressing the related importation of commodities sourced from recently deforested land. To further advance these commitments, conserve these critical ecosystems, and address drivers of global deforestation—including illegal forest clearing to produce agricultural commodities—the following actions shall be taken:

(a) within 1 year of the date of this order, the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Homeland Security (through the Commissioner of U.S. Customs and Border Protection), the Administrator of the Small Business Administration, the Administrator of the United States Agency for International Development, the United States Trade Representative, and the Special Presidential Envoy for Climate, shall submit a report to the President evaluating options, including recommendations for proposed legislation, for a whole-of-government approach to combating international deforestation that includes:

(i) an analysis of the feasibility of limiting or removing specific commodities grown on lands deforested either illegally or after December 31, 2020, from agricultural supply chains; and

(ii) an analysis of the potential for public-private partnerships with major agricultural commodity buyers, traders, financial institutions, and other actors to voluntarily reduce or eliminate the purchase of such commodities and incentivize sourcing of sustainably produced agricultural commodities.

(b) within 1 year of the date of this order, the Secretary of State, in coordination with other appropriate agencies, shall submit a report to the President on how agencies that engage in international programming, assistance, finance, investment, trade, and trade promotion, can, consistent with applicable law, accomplish the following:

(i) incorporate the assessment of risk of deforestation and other land conversion into guidance on foreign assistance and investment programming related to infrastructure development, agriculture, settlements, land use planning or zoning, and energy siting and generation;

(ii) address deforestation and land conversion risk in new relevant trade agreements and seek to address such risks, where possible, in the implementation of existing trade agreements;

(iii) identify and engage in international processes and fora, as appropriate, to pursue approaches to combat deforestation and enhance sustainable land use opportunities in preparing climate, development, and finance strategies;

(iv) engage other major commodity-importing and commodity-producing countries to advance common interests in addressing commodity-driven deforestation; and

(v) assess options to direct foreign assistance and other agency programs and tools, as appropriate, to help threatened forest communities transition to an economically sustainable future, with special attention to the participation of and the critical role played by indigenous peoples and local communities and landholders in protecting and restoring forests and in reducing deforestation and forest degradation.

SEC. 4. Deploying Nature-Based Solutions to Tackle Climate Change and Enhance Resilience. Just as forest conservation, restoration, and adaptation generate broad benefits related to climate change and other areas, other nature-based solutions can advance multiple benefits. These solutions include actions that protect coasts and critical marine ecosystems, reduce flooding, moderate extreme heat, replenish groundwater sources, capture and store carbon dioxide, conserve biodiversity, and improve the productivity of agricultural and forest lands to produce food and fiber. To ensure that agencies pursue nature-based solutions, to the extent consistent with applicable law and supported by science, the following actions shall be taken:

(a) The Chair of the Council on Environmental Quality, the Director of the Office of Science and Technology Policy, and the Assistant to the President and National Climate Advisor shall, in consultation with the Secretary of Defense (through the Assistant Secretary of the Army for Civil Works), the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce (through the Administrator of the National Oceanic and Atmospheric Administration), the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Energy, the Secretary of Homeland Security (through the Administrator of the Federal Emergency Management Agency), the Administrator of the Environmental Protection Agency, the Administrator of the Small Business Administration, and the heads of other agencies as appropriate, submit a report to the National Climate Task Force to identify key opportunities for greater deployment of nature-based solutions across the Federal Government, including through potential policy, guidance, and program changes.

(b) The Director of the Office of Management and Budget shall issue guidance related to the valuation of ecosystem and environmental services and natural assets in Federal regulatory decision-making, consistent with the efforts to modernize regulatory review required by my Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review) [86 F.R. 7223].

(c) Implementation of the United States Global Change Research Program shall include an assessment of the condition of nature within the United States in a report carrying out section 102 of the Global Change Research Act of 1990, 15 U.S.C. 2932.

SEC. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§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 5304 of title 25.

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

EDITORIAL NOTES

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

(A) In general

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.

(B) Inclusion

The term "authorized hazardous fuel reduction project" includes, using the measures and methods described in subparagraph (A), the installation of—

(i) a natural or manmade change in fuel characteristics that affects fire behavior such that a fire can be more readily controlled (commonly known as a "fuel break"); and

(ii) a natural or constructed barrier used to stop or check a fire or to provide a control line from which to work to stop or check a fire (commonly known as a "firebreak").

(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) ¹ (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; Pub. L. 115–141, div. O, title II, §203, Mar. 23, 2018, 132 Stat. 1064.)

EDITORIAL NOTES

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.

House Report No. 106–64, referred to in par. (11), does not exist. However, there was a House Report No. 106–646 that accompanied H.R. 4578, which became the Department of the Interior and Related Agencies Appropriations Act, 2001. The conference report that accompanied H.R. 4578 was H. Rept. 106–914.

The Endangered Species Act of 1973, referred to in par. (15), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, 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.

AMENDMENTS

2018—Par. (2). Pub. L. 115–141 designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

¹ See References in Text note below.

§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 December 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 subsection (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

Chapter 10 of title 5 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.

(e) Cross-boundary hazardous fuel reduction projects

(1) Definitions

In this subsection:

(A) Hazardous fuel reduction project

The term "hazardous fuel reduction project" means a hazardous fuel reduction project described in paragraph (2).

(B) Non-Federal land

The term "non-Federal land" includes—

- (i) State land;
- (ii) county land;
- (iii) Tribal land;
- (iv) private land; and
- (v) other non-Federal land.

(2) Grants

The Secretary may make grants to State foresters to support hazardous fuel reduction projects that incorporate treatments in landscapes across ownership boundaries on Federal and non-Federal land, particularly in areas identified as priorities in applicable State-wide forest resource assessments or strategies under section 2101a(a) of this title, as mutually agreed to by the State forester and the Regional Forester.

(3) Land treatments

To conduct and fund treatments for hazardous fuel reduction projects carried out by State foresters using grants under paragraph (2), the Secretary may use the authorities of the Secretary relating to cooperation and technical and financial assistance, including the good neighbor authority under—

- (A) section 2113a of this title; and
- (B) section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (16 U.S.C. 1011 note; Public Law 106–291).

(4) Cooperation

In carrying out a hazardous fuel reduction project using a grant under paragraph (2) on non-Federal land, the State forester, in consultation with the Secretary—

- (A) shall consult with any applicable owners of the non-Federal land; and
- (B) shall not implement the hazardous fuel reduction project on non-Federal land without the consent of the owner of the non-Federal land.

(5) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2019 through 2023.

(Pub. L. 108–148, title I, §103, Dec. 3, 2003, 117 Stat. 1896; Pub. L. 115–334, title VIII, §8401, Dec. 20, 2018, 132 Stat. 4840; Pub. L. 117–286, §4(a)(130), Dec. 27, 2022, 136 Stat. 4319.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, 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.

AMENDMENTS

2022—Subsec. (b)(2). Pub. L. 117–286 substituted "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)".

2018—Subsec. (e). Pub. L. 115–334 added subsec. (e).

§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 describe 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, 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.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

FOREST SERVICE PRE-DECISIONAL OBJECTION PROCESS

Pub. L. 113–79, title VIII, §8006(b), Feb. 7, 2014, 128 Stat. 913, provided that: "Section 428 of division E of the Consolidated Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112–74) shall not apply to any project or activity implementing a land and resource management plan developed under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) that is categorically excluded from documentation in an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."

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 ([former] 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) Expedient 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.)

EDITORIAL NOTES

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, 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 \$660,000,000 for each of fiscal years 2019 through 2023 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; Pub. L. 115–334, title VIII, §8402, Dec. 20, 2018, 132 Stat. 4841.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–334 substituted "\$660,000,000 for each of fiscal years 2019 through 2023" for "\$760,000,000 for each fiscal year" in introductory provisions.

SUBCHAPTER II—BIOMASS

§6531. Repealed. Pub. L. 115–334, title VIII, §8403(a), Dec. 20, 2018, 132 Stat. 4841

Section, Pub. L. 108–148, title II, §203, Dec. 3, 2003, 117 Stat. 1902, related to biomass commercial utilization grant program.

SUBCHAPTER III—WATERSHED FORESTRY ASSISTANCE

§6541. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 108–148, title III, §301, Dec. 3, 2003, 117 Stat. 1902, which provided congressional findings and purposes of title III of Pub. L. 108–148 (enacting this subchapter and section 2103b of this title), was omitted in view of the repeal of sections 2103b and 6542 of this title.

§6542. Water Source Protection Program

(a) Definitions

In this section:

(1) End water user

The term "end water user" means a non-Federal entity, including—

- (A) a State;
- (B) a political subdivision of a State;
- (C) an Indian tribe;
- (D) a utility;
- (E) a municipal water system;

- (F) an irrigation district;
- (G) a nonprofit organization; and
- (H) a corporation.

(2) Forest management activity

The term "forest management activity" means a project carried out by the Secretary on National Forest System land.

(3) Forest plan

The term "forest plan" means a land management plan prepared by the Forest Service for a unit of the National Forest System pursuant to section 1604 of this title.

(4) Non-Federal partner

The term "non-Federal partner" means an end water user with whom the Secretary has entered into a partnership agreement under subsection (c)(1).

(5) Program

The term "Program" means the Water Source Protection Program established under subsection (b).

(6) Secretary

The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(7) Water source management plan

The term "water source management plan" means the water source management plan developed under subsection (d)(1).

(b) Establishment

The Secretary shall establish and maintain a program, to be known as the "Water Source Protection Program", to carry out watershed protection and restoration projects on National Forest System land.

(c) Water source investment partnerships

(1) In general

In carrying out the Program, the Secretary may enter into water source investment partnership agreements with end water users to protect and restore the condition of National Forest watersheds that provide water to the end water users.

(2) Form

A partnership agreement described in paragraph (1) may take the form of—

- (A) a memorandum of understanding;
- (B) a cost-share or collection agreement;
- (C) a long-term funding matching commitment; or
- (D) another appropriate instrument, as determined by the Secretary.

(d) Water source management plan

(1) In general

In carrying out the Program, the Secretary, in cooperation with the non-Federal partners and applicable State, local, and Tribal governments, may develop a water source management plan that describes the proposed implementation of watershed protection and restoration projects under the Program.

(2) Requirement

A water source management plan shall be conducted in a manner consistent with the forest plan applicable to the National Forest System land on which the watershed protection and restoration project is carried out.

(3) Environmental analysis

The Secretary may conduct a single environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

- (A) for each watershed protection and restoration project included in the water source management plan; or
- (B) as part of the development of, or after the finalization of, the water source management plan.

(e) Forest management activities

(1) In general

To the extent that forest management activities are necessary to protect, maintain, or enhance water quality, and in accordance with paragraph (2), the Secretary shall carry out forest management activities as part of watershed protection and restoration projects carried out on National Forest System land, with the primary purpose of—

- (A) protecting a municipal water supply system;
- (B) restoring forest health from insect infestations and disease; or
- (C) any combination of the purposes described in subparagraphs (A) and (B).

(2) Compliance

The Secretary shall carry out forest management activities under paragraph (1) in accordance with—

- (A) this chapter;
- (B) the applicable water source management plan;

- (C) the applicable forest plan; and
- (D) other applicable laws.

(f) Endangered Species Act of 1973

In carrying out the Program, the Secretary may use the Manual on Adaptive Management of the Department of the Interior, including any associated guidance, to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(g) Funds and services

(1) In general

In carrying out the Program, the Secretary may accept and use funding, services, and other forms of investment and assistance from non-Federal partners to implement the water source management plan.

(2) Matching funds required

The Secretary shall require the contribution of funds or in-kind support from non-Federal partners to be in an amount that is at least equal to the amount of Federal funds.

(3) Manner of use

The Secretary may accept and use investments described in paragraph (1) directly or indirectly through the National Forest Foundation.

(4) Water source protection fund

(A) In general

Subject to the availability of appropriations, the Secretary may establish a Water Source Protection Fund to match funds or in-kind support contributed by non-Federal partners under paragraph (1).

(B) Use of appropriated funds

There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2019 through 2023.

(C) Partnership agreements

The Secretary may make multiyear commitments, if necessary, to implement 1 or more partnership agreements under subsection (c).

(Pub. L. 108–148, title III, §303, as added Pub. L. 115–334, title VIII, §8404(a), Dec. 20, 2018, 132 Stat. 4841.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, 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.

This chapter, referred to in subsec. (e)(2)(A), 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.

The Endangered Species Act of 1973, referred to in subsec. (f), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, 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.

PRIOR PROVISIONS

A prior section 6542, Pub. L. 108–148, title III, §303, Dec. 3, 2003, 117 Stat. 1905, provided for tribal watershed forestry assistance and the development of water quality and watershed forestry programs, prior to repeal by Pub. L. 113–79, title VIII, §8005, Feb. 7, 2014, 128 Stat. 913.

§6543. Watershed Condition Framework

(a) In general

The Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the "Secretary"), may establish and maintain a Watershed Condition Framework for National Forest System land—

(1) to evaluate and classify the condition of watersheds, taking into consideration—

- (A) water quality and quantity;
- (B) aquatic habitat and biota;
- (C) riparian and wetland vegetation;
- (D) the presence of roads and trails;
- (E) soil type and condition;
- (F) groundwater-dependent ecosystems;

- (G) relevant terrestrial indicators, such as fire regime, risk of catastrophic fire, forest and rangeland vegetation, invasive species, and insects and disease; and
- (H) other significant factors, as determined by the Secretary;

(2) to identify for protection and restoration up to 5 priority watersheds in each National Forest, and up to 2 priority watersheds in each national grassland, taking into consideration the impact of the condition of the watershed condition on—

- (A) wildfire behavior;
- (B) flood risk;
- (C) fish and wildlife;
- (D) drinking water supplies;
- (E) irrigation water supplies;
- (F) forest-dependent communities; and
- (G) other significant impacts, as determined by the Secretary;

(3) to develop a watershed protection and restoration action plan for each priority watershed that—

- (A) takes into account existing restoration activities being implemented in the watershed; and
- (B) includes, at a minimum—
 - (i) the major stressors responsible for the impaired condition of the watershed;
 - (ii) a set of essential projects that, once completed, will address the identified stressors and improve watershed conditions;
 - (iii) a proposed implementation schedule;
 - (iv) potential partners and funding sources; and
 - (v) a monitoring and evaluation program;

(4) to prioritize protection and restoration activities for each watershed restoration action plan;

(5) to implement each watershed protection and restoration action plan; and

(6) to monitor the effectiveness of protection and restoration actions and indicators of watershed health.

(b) Coordination

In carrying out subsection (a), the Secretary shall—

- (1) coordinate with interested non-Federal landowners and State, Tribal, and local governments within the relevant watershed; and
- (2) provide for an active and ongoing public engagement process.

(c) Emergency designation

Notwithstanding paragraph (2) of subsection (a), the Secretary may identify a watershed as a priority for rehabilitation in the Watershed Condition Framework without using the process described in that subsection if a Forest Supervisor determines that—

- (1) a wildfire has significantly diminished the condition of the watershed; and
- (2) the emergency stabilization activities of the Burned Area Emergency Response Team are insufficient to return the watershed to proper function.

(Pub. L. 108–148, title III, §304, as added Pub. L. 115–334, title VIII, §8405(a), Dec. 20, 2018, 132 Stat. 4843.)

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.)

EDITORIAL NOTES

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, 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.)

EDITORIAL NOTES

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, 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. Termination of effectiveness

The authority provided by this subchapter terminates effective October 1, 2023.
(Pub. L. 108–148, title IV, §406, Dec. 3, 2003, 117 Stat. 1911; Pub. L. 115–334, title VIII, §8406(a), Dec. 20, 2018, 132 Stat. 4845.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–334 amended section generally. Prior to amendment, text read as follows: "There are authorized to be appropriated such sums as are necessary to carry out this subchapter for each of fiscal years 2004 through 2008."

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 purpose of restoring and enhancing forest ecosystems—

- (1) to promote the recovery of threatened and endangered species;
- (2) to improve biodiversity;
- (3) to conserve forest land that provides habitat for species described in section 6572(b) of this title; and
- (4) 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; Pub. L. 115–334, title VIII, §8407(a)(1), Dec. 20, 2018, 132 Stat. 4845.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a)(3), (4). Pub. L. 115–334 added par. (3) and redesignated former par. (3) as (4).

§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 private forest land, or private land being restored to forest land, the enrollment of which will maintain, restore, enhance, or otherwise measurably

- (1) increase the likelihood of recovery of a species that is listed as endangered or threatened under section 1533 of this title; or
- (2) improve the well-being of a species that—
 - (A) is—
 - (i) not listed as endangered or threatened under such section; and
 - (ii) a candidate for such listing, a State-listed species, or a special concern species; or
 - (B) is deemed a species of greatest conservation need by a State wildlife action plan.

(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;
- (2) conserve forest land that provides habitat for species described in subsection (b); and
- (3) 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) Acreage owned by Indian tribes

(A) Definition of acreage owned by Indian tribes

In this paragraph, the term "acreage owned by Indian tribes" includes—

- (i) land that is held in trust by the United States for Indian tribes or individual Indians;
- (ii) land, the title to which is held by Indian tribes or individual Indians subject to Federal restrictions against alienation or encumbrance;
- (iii) land that is subject to rights of use, occupancy, and benefit of certain Indian tribes;
- (iv) land that is held in fee title by an Indian tribe; or
- (v) land that is owned by a native corporation formed under section 5124 of title 25 or section 1607 of title 43; or
- (vi) a combination of 1 or more types of land described in clauses (i) through (v).

(B) Enrollment of acreage

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—

- (i) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);
- (ii) a 10-year cost-share agreement;
- (iii) a permanent easement; or
- (iv) any combination of the options described in clauses (i) through (iii).

(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)(I) are candidates for such listing, State-listed species, or special concern species; or
 - (II) are deemed a species of greatest conservation need under a State wildlife action plan.

(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.

(g) Easement modification or termination

(1) In general

The Secretary may modify or terminate an easement or other interest in land administered by the Secretary under this title if—

- (A) the owner of the land agrees to the modification or termination; and
- (B) the Secretary determines that the modification or termination—
 - (i) will address a compelling public need for which there is no practicable alternative; and
 - (ii) is in the public interest.

(2) Consideration; conditions

(A) Termination

As consideration for termination of an easement or other interest in land under this subsection, the Secretary shall enter into a compensatory arrangement, as the Secretary determines to be appropriate.

(B) Modification

In the case of a modification of an easement or other interest in land under this subsection—

- (i) as a condition of the modification, the owner of the land shall enter into a compensatory arrangement, as the Secretary determines to be appropriate, to incur the costs of modification; and
- (ii) the Secretary shall ensure that—
 - (I) the modification will not adversely affect the forest ecosystem functions and values for which the easement or other interest in land was acquired;
 - (II) any adverse impacts will be mitigated by enrollment and restoration of other land that provides greater forest ecosystem functions and values at no additional cost to the Federal Government; and

(III) the modification will result in equal or greater environmental and economic values to the United States.

(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; Pub. L. 113–79, title VIII, §8203(a), Feb. 7, 2014, 128 Stat. 914; Pub. L. 115–334, title VIII, §8407(a)(2)–(6), Dec. 20, 2018, 132 Stat. 4845, 4846; Pub. L. 117–328, div. HH, title III, §401, Dec. 29, 2022, 136 Stat. 5984.)

EDITORIAL NOTES

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

2022—Subsec. (g). Pub. L. 117–328 added subsec. (g).

2018—Subsec. (b). Pub. L. 115–334, §8407(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: "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."

Subsec. (c)(2), (3). Pub. L. 115–334, §8407(a)(3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e)(2). Pub. L. 115–334, §8407(a)(4), redesignated par. (3) as (2) and struck out former par. (2) which related to limitation on use of cost-share agreements and easements.

Subsec. (e)(2)(B)(ii) to (iv). Pub. L. 115–334, §8407(a)(5), added cls. (ii) to (iv) and struck out former cls. (ii) and (iii) which read as follows:

"(ii) a 10-year cost-share agreement; or

"(iii) any combination of the options described in clauses (i) and (ii)."

Subsec. (e)(3). Pub. L. 115–334, §8407(a)(4), redesignated par. (3) as (2).

Subsec. (f)(1)(B)(ii). Pub. L. 115–334, §8407(a)(6), added cl. (ii) and struck out former cl. (ii) which read as follows: "are candidates for such listing, State-listed species, or special concern species."

2014—Subsec. (e)(3). Pub. L. 113–79, §8203(a)(2), (3), added subpar. (A), designated existing provisions as subpar. (B) and inserted heading, and redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, of subpar. (B) and realigned margins.

Subsec. (e)(3)(C). Pub. L. 113–79, §8203(a)(1), substituted "clauses (i) and (ii)" for "subparagraphs (A) and (B)".

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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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 of the Interior.

(b) Practices

The restoration plan shall require such restoration practices and measures as are necessary to restore and enhance habitat for species described in section 6572(b) of this title, including the following:

- (1) Land management practices.
- (2) Vegetative treatments.

- (3) Structural practices and measures.
- (4) Practices to increase carbon sequestration.
- (5) Practices to improve biological diversity.
- (6) Other practices and measures.

(Pub. L. 108–148, title V, §503, Dec. 3, 2003, 117 Stat. 1912; Pub. L. 115–334, title VIII, §8407(a)(7), (9), Dec. 20, 2018, 132 Stat. 4846.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–334, §8407(a)(9), substituted "Secretary of the Interior" for "Secretary of Interior".

Subsec. (b). Pub. L. 115–334, §8407(a)(7), amended subsec. (b) generally. Prior to amendment, text read as follows: "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."

§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.

(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.)

EDITORIAL NOTES

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.

¹ *So in original. Probably should be "6572(e)(1)(C)(ii)".*

§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) Fiscal years 2009 through 2013 ¹

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 ¹ to carry out this subchapter.

(b) Authorization of appropriations

There is authorized to be appropriated to the Secretary of Agriculture to carry out this section \$12,000,000 for each of fiscal years 2014 through 2023.

(c) Additional source of funds

In addition to funds appropriated pursuant to the authorization of appropriations in subsection (b) for a fiscal year, the Secretary may use such amount of the funds appropriated for that fiscal year to carry out the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.) as the Secretary determines necessary to cover the cost of

technical assistance, management, and enforcement responsibilities for land enrolled in the healthy forests reserve program pursuant to subsections (a) and (b) of section 6574 of this title.

(d) 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; Pub. L. 113–79, title VIII, §8203(b), Feb. 7, 2014, 128 Stat. 915; Pub. L. 115–334, title VIII, §8407(a)(8), Dec. 20, 2018, 132 Stat. 4846.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, referred to in subsec. (c), is act [Apr. 27, 1935, ch. 85](#), 49 Stat. 163, which is classified generally to chapter 3B (§590a et seq.) of this title. For complete classification of this Act to the Code, see section 590q of this title and Tables.

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

2018—Subsec. (b). Pub. L. 115–334 substituted "Authorization of appropriations" for "Fiscal years 2014 through 2018" in heading and "2023" for "2018" in text.

2014—Subsec. (a). Pub. L. 113–79, §8203(b)(1), substituted "Fiscal years 2009 through 2013" for "In general" in heading.

Subsecs. (b) to (d). Pub. L. 113–79, §8203(b)(2), (3), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

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."

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

¹ So in original. Heading and text do not correspond.

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.)

§6591a. Designation of treatment areas

(a) Definition of declining forest health

In this section, the term "declining forest health" means a forest that is experiencing—

- (1) substantially increased tree mortality due to insect or disease infestation; or
- (2) dieback due to infestation or defoliation by insects or disease.

(b) Designation of treatment areas

(1) Initial areas

Not later than 60 days after February 7, 2014, the Secretary shall, if requested by the Governor of the State, designate as part of an insect and disease treatment program 1 or more landscape-scale areas, such as subwatersheds (sixth-level hydrologic units, according to the System of Hydrologic Unit Codes of the United States Geological Survey), in at least 1 national forest in each State that is experiencing an insect or disease epidemic.

(2) Additional areas

After the end of the 60-day period described in paragraph (1), the Secretary may designate additional landscape-scale areas under this section as needed to address insect or disease threats.

(c) Requirements

To be designated a landscape-scale area under subsection (b), the area shall be—

- (1) experiencing declining forest health, based on annual forest health surveys conducted by the Secretary;
- (2) at risk of experiencing substantially increased tree mortality over the next 15 years due to insect or disease infestation, based on the most recent National Insect and Disease Risk Map published by the Forest Service; or
- (3) in an area in which the risk of hazard trees poses an imminent risk to public infrastructure, health, or safety.

(d) Treatment of areas

(1) In general

The Secretary may carry out priority projects on Federal land in the areas designated under subsection (b)—

- (A) to reduce the risk or extent of, or increase the resilience to, insect or disease infestation; or
- (B) to reduce hazardous fuels.

(2) Authority

Any project under paragraph (1) for which a public notice to initiate scoping is issued on or before September 30, 2023, may be carried out in accordance with subsections (b), (c), and (d) of section 6512 of this title, and sections 6514, 6515, and 6516 of this title.

(3) Effect

Projects carried out under this subsection shall be considered authorized hazardous fuel reduction projects for purposes of the authorities described in paragraph (2).

(4) Report

(A) In general

In accordance with the schedule described in subparagraph (B), the Secretary shall issue 2 reports on actions taken to carry out this subsection, including—

- (i) an evaluation of the progress towards project goals; and
- (ii) recommendations for modifications to the projects and management treatments.

(B) Schedule

The Secretary shall—

- (i) not earlier than September 30, 2018, issue the initial report under subparagraph (A); and
- (ii) not earlier than September 30, 2024, issue the second report under that subparagraph.

(e) Tree retention

The Secretary shall carry out projects under subsection (d) in a manner that maximizes the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease.

EDITORIAL NOTES

CODIFICATION

The authorities provided by each provision of, and each amendment made by, Pub. L. 115–334, as in effect on Sept. 30, 2023, to continue, and authorities to be carried out, until the later of Sept. 30, 2024, or the date specified in the provision of, or amendment made by, Pub. L. 115–334, see section 102(a) of Pub. L. 118–22, set out in an Extension of Agricultural Programs note under section 9001 of Title 7, Agriculture.

AMENDMENTS

2018—Subsec. (d)(1). Pub. L. 115–334, §8407(b)(1), substituted "subsection (b)—" and subpars. (A) and (B) for "subsection (b) to reduce the risk or extent of, or increase the resilience to, insect or disease infestation in the areas."

Subsec. (d)(2). Pub. L. 115–334, §8407(b)(2), substituted "2023" for "2018".

Subsec. (f). Pub. L. 115–334, §8408, struck out subsec. (f). Prior to amendment, text read as follows: "There is authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2014 through 2024."

§6591b. Administrative review

(a) In general

Except as provided in subsection (d), a project described in subsection (b) that is conducted in accordance with section 6591a(d) of this title may be—

- (1) considered an action categorically excluded from the requirements of Public Law 91–190 (42 U.S.C. 4321 et seq.); and
- (2) exempt from the special administrative review process under section 6515 of this title.

(b) Collaborative restoration project

(1) In general

A project referred to in subsection (a) is a project to carry out forest restoration treatments that—

- (A) maximizes the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease;
- (B) considers the best available scientific information to maintain or restore the ecological integrity, including maintaining or restoring structure, function, composition, and connectivity; and
- (C) is developed and implemented through a collaborative process that—
 - (i) includes multiple interested persons representing diverse interests; and
 - (ii)(I) is transparent and nonexclusive; or
 - (II) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 7125 of this title.

(2) Inclusion

A project under this subsection may carry out part of a proposal that complies with the eligibility requirements of the Collaborative Forest Landscape Restoration Program under section 7303(b) of this title.

(c) Limitations

(1) Project size

A project under this section may not exceed 3000 acres.

(2) Location

A project under this section shall be limited to areas—

- (A) in the wildland-urban interface; or
- (B) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland-urban interface.

(3) Roads

(A) Permanent roads

(i) Prohibition on establishment

A project under this section shall not include the establishment of permanent roads.

(ii) Existing roads

The Secretary may carry out necessary maintenance and repairs on existing permanent roads for the purposes of this section.

(B) Temporary roads

The Secretary shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed.

(d) Exclusions

This section does not apply to—

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

(e) Forest management plans

All projects and activities carried out under this section shall be consistent with the land and resource management plan established under section 1604 of this title for the unit of the National Forest System containing the projects and activities.

(f) Public notice and scoping

The Secretary shall conduct public notice and scoping for any project or action proposed in accordance with this section.

(g) Accountability

(1) In general

The Secretary shall prepare an annual report on the use of categorical exclusions under this section that includes a description of all acres (or other appropriate unit) treated through projects carried out under this section.

(2) Submission

Not later than 1 year after February 7, 2014, and each year thereafter, the Secretary shall submit the reports required under paragraph (1) to—

- (A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;
- (B) the Committee on Environment and Public Works of the Senate;
- (C) the Committee on Agriculture of the House of Representatives;
- (D) the Committee on Natural Resources of the House of Representatives; and
- (E) the Government Accountability Office.

(Pub. L. 108–148, title VI, §603, as added Pub. L. 113–79, title VIII, §8204, Feb. 7, 2014, 128 Stat. 916.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 91–190, referred to in subsec. (a)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, 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.

§6591c. Stewardship end result contracting projects

(a) Definitions

In this section:

(1) Chief

The term "Chief" means the Chief of the Forest Service.

(2) Director

The term "Director" means the Director of the Bureau of Land Management.

(b) Projects

The Chief and the Director, via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.

(c) Land management goals

The land management goals of a project under subsection (b) may include any of the following:

- (1) Road and trail maintenance or obliteration to restore or maintain water quality.
- (2) Soil productivity, habitat for wildlife and fisheries, or other resource values.
- (3) Setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat.
- (4) Removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives.

- (5) Watershed restoration and maintenance.
- (6) Restoration and maintenance of wildlife and fish.
- (7) Control of noxious and exotic weeds and reestablishing native plant species.

(d) Agreements or contracts

(1) Procurement procedure

A source for performance of an agreement or contract under subsection (b) shall be selected on a best-value basis, including consideration of source under other public and private agreements or contracts.

(2) Contract for sale of property

A contract entered into under this section may, at the discretion of the Secretary of Agriculture, be considered a contract for the sale of property under such terms as the Secretary may prescribe without regard to any other provision of law.

(3) Term

(A) In general

Except as provided in subparagraph (B), the Chief and the Director may enter into a contract under subsection (b) in accordance with section 3903 of title 41.

(B) Maximum

The period of the contract under subsection (b) may exceed 5 years but may not exceed 10 years.

(4) Offsets

(A) In general

The Chief and the Director may apply the value of timber or other forest products removed as an offset against the cost of services received under the agreement or contract described in subsection (b).

(B) Methods of appraisal

The value of timber or other forest products used as an offset under subparagraph (A)—

(i) shall be determined using appropriate methods of appraisal commensurate with the quantity of products to be removed; and

(ii) may—

(I) be determined using a unit of measure appropriate to the contracts; and

(II) may include valuing products on a per-acre basis.

(5) Relation to other laws

Notwithstanding subsections (d) and (g) of section 472a of this title, the Chief may enter into an agreement or contract under subsection (b). Notwithstanding the Materials Act of 1947 (30 U.S.C. 602(a)),¹ the Director may enter into an agreement or contract under subsection (b).

(6) Contracting officer

Notwithstanding any other provision of law, the Secretary or the Secretary of the Interior may determine the appropriate contracting officer to enter into and administer an agreement or contract under subsection (b).

(7) Fire liability provisions

Not later than 90 days after February 7, 2014, the Chief shall issue for use in all contracts and agreements under this section fire liability provisions that are in substantially the same form as the fire liability provisions contained in—

(A) integrated resource timber contracts, as described in the Forest Service contract numbered 2400–13, part H, section H.4; and

(B) timber sale contracts conducted pursuant to section 472a of this title.

(e) Receipts

(1) In general

The Chief and the Director may collect monies from an agreement or contract under subsection (b) if the collection is a secondary objective of negotiating the contract that will best achieve the purposes of this section.

(2) Use

Monies from an agreement or contract under subsection (b)—

(A) may be retained by the Chief and the Director; and

(B) shall be available for expenditure without further appropriation at the project site from which the monies are collected or at another project site.

(3) Relation to other laws

(A) In general

Notwithstanding any other provision of law, the value of services received by the Chief or the Director under a stewardship contract project conducted under this section, and any payments made or resources provided by the contractor, Chief, or Director shall not be considered monies received from the National Forest System or the public lands.

(B) Knutson-Vanderberg ² Act

The Act of June 9, 1930 (commonly known as the "Knutson-Vanderberg ² Act") (16 U.S.C. 576 et seq.) shall not apply to any agreement or contract under subsection (b).

(f) Costs of removal

Notwithstanding the fact that a contractor did not harvest the timber, the Chief may collect deposits from a contractor covering the costs of removal of timber or other forest products under—

- (1) section 490 of this title; and
- (2) section 498 of this title.

(g) Performance and payment guarantees

(1) In general

The Chief and the Director may require performance and payment bonds under sections 28.103–2 and 28.103–3 of the Federal Acquisition Regulation, in an amount that the contracting officer considers sufficient to protect the investment in receipts by the Federal Government generated by the contractor from the estimated value of the forest products to be removed under a contract under subsection (b).

(2) Excess offset value

If the offset value of the forest products exceeds the value of the resource improvement treatments, the Chief and the Director may—

- (A) use the excess to satisfy any outstanding liabilities for cancelled agreements or contracts; or
- (B) if there are no outstanding liabilities described in subparagraph (A), apply the excess to other authorized stewardship projects.

(h) Cancellation ceilings

(1) In general

Notwithstanding section 3903(b)(1) of title 41, the Chief and the Director may obligate funds in stages that are economically or programmatically viable to cover any potential cancellation or termination costs for an agreement or contract under subsection (b).

(2) Advance notice to Congress of cancellation ceiling in excess of \$25,000,000

Not later than 30 days before entering into a multiyear agreement or contract under subsection (b) that includes a cancellation ceiling in excess of \$25,000,000, but does not include proposed funding for the costs of cancelling the agreement or contract up to that cancellation ceiling, the Chief or the Director, as applicable, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives a written notice that includes—

- (A) a description of the cancellation ceiling amounts proposed for each program year in the agreement or contract;
- (B) the reasons why the cancellation ceiling amounts described under subparagraph (A) were selected;
- (C) a description of the extent to which the costs of contract cancellation are not included in the budget for the agreement or contract; and
- (D) an assessment of the financial risk of not including budgeting for the costs of agreement or contract cancellation.

(3) Transmittal of notice to OMB

Not later than 14 days after the date on which written notice is provided under paragraph (2), the Chief or the Director, as appropriate, shall transmit a copy of the notice to the Director of the Office of Management and Budget.

(i) Monitoring and evaluation

(1) In general

The Chief and the Director shall establish a multiparty monitoring and evaluation process that accesses the stewardship contracting projects conducted under this section.

(2) Participants

- Other than the Chief and Director, participants in the process described in paragraph (1) may include—
- (A) any cooperating governmental agencies, including tribal governments; and
 - (B) any other interested groups or individuals.

(j) Reporting

Not later than 1 year after February 7, 2014, and annually thereafter, the Chief and the Director shall submit to the congressional committees described in subsection (h)(2) a report on—

- (1) the status of development, execution, and administration of agreements or contracts under subsection (b);
- (2) the specific accomplishments that have resulted; and
- (3) the role of local communities in the development of agreements or contract plans.

(Pub. L. 108–148, title VI, §604, as added Pub. L. 113–79, title VIII, §8205(a), Feb. 7, 2014, 128 Stat. 918; amended Pub. L. 115–31, div. G, title IV, §422, May 5, 2017, 131 Stat. 499; Pub. L. 115–141, div. O, title II, §§204–206, Mar. 23, 2018, 132 Stat. 1064, 1065.)

REFERENCES IN TEXT

The Materials Act of 1947, referred to in subsec. (d)(5), is act [July 31, 1947, ch. 406](#), 61 Stat. 681, which is classified generally to subchapter I (§601 et seq.) of chapter 15 of Title 30, Mineral Lands and Mining. Section 602(a) of Title 30 is section 2(a) of the Act. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 30 and Tables.

The Act of June 9, 1930, referred to in subsec. (e)(3)(B), is act [June 9, 1930, ch. 416](#), 46 Stat. 527, popularly known as the Knutson-Vandenberg Act, which is classified generally to sections 576, 576a, and 576b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 576 of this title and Tables.

Section 490 of this title, referred to in subsec. (f)(1), was in the original "the Act of August 11, 1916 (16 U.S.C. 490)", and was translated as referring to the undesignated provisions appearing in act [Aug. 11, 1916, ch. 313](#), 39 Stat. 462, which are classified to section 490 of this title.

Section 498 of this title, referred to in subsec. (f)(2), was in the original "the Act of June 30, 1914 (16 U.S.C. 498)", and was translated as referring to the undesignated provisions appearing in act [June 30, 1914, ch. 131](#), 38 Stat. 430, which are classified to section 498 of this title.

AMENDMENTS

2018—Subsec. (g)(2). Pub. L. 115–141, §205, added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

"(A) collect any residual receipts under the Act of June 9, 1930 (commonly known as the "Knutson-Vandenberg Act") (16 U.S.C. 576 et seq.); and

"(B) apply the excess to other authorized stewardship projects."

Subsecs. (h), (i). Pub. L. 115–141, §204, added subsec. (h) and redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 115–141, §§204(1), 206, redesignated subsec. (i) as (j) and substituted "submit to the congressional committees described in subsection (h)(2) a report" for "report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives" in introductory provisions.

2017—Subsec. (d)(5). Pub. L. 115–31, §422(1), inserted at end "Notwithstanding the Materials Act of 1947 (30 U.S.C. 602(a)), the Director may enter into an agreement or contract under subsection (b)."

Subsec. (d)(7). Pub. L. 115–31, §422(2), struck out "and the Director" after "the Chief" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

20-YEAR STEWARDSHIP CONTRACTING

Pub. L. 115–141, [div. O, title II, §207, Mar. 23, 2018](#), 132 Stat. 1065, provided that:

"(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of the Interior may award contracts or agreements under section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511 [6591c]), for terms not to exceed 20 years on areas where the majority of Federal lands are in Fire Regime Groups I, II, or III.

"(b) PREFERENCE.—In awarding a contract under this section, the Secretary concerned [see Definitions note below] may, notwithstanding the Federal Acquisition Regulations, give a procurement preference to a contractor that would, as part of the contract, promote an innovative use of forest products, including cross-laminated timber."

DEFINITIONS

Pub. L. 115–141, [div. O, title II, §201, Mar. 23, 2018](#), 132 Stat. 1062, provided that: "In this title [see Tables for classification]:

"(1) NATIONAL FOREST SYSTEM.—The term 'National Forest System' has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

"(2) PUBLIC LAND.—The term 'public land' has the meaning given the term 'public lands' in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

"(3) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

"(A) the Secretary of Agriculture, with respect to National Forest System land; and

"(B) the Secretary of the Interior, with respect to public land."

¹ See *References in Text* note below.

² So in original. Probably should be "Knutson-Vandenberg".

§6591d. Wildfire resilience projects

(a) In general

Hazardous fuels reduction projects, as defined in section 6511(2) of this title may be—

- (1) carried out in accordance with subsections (b), (c), and (d) of section 6512 of this title and sections 6514 and 6515 of this title;
- (2) considered an action categorically excluded from the requirements of Public Law 91–190 (42 U.S.C. 4321 et seq.); and
- (3) exempt from the special administrative review process under section 6515 of this title.

(b) Collaborative restoration project

(1) In general

A project referred to in subsection (a) is a project to carry out forest restoration treatments that—

- (A) maximizes the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease, and reduce the risk or extent of, or increase the resilience to, wildfires;
- (B) considers the best available scientific information to maintain or restore the ecological integrity, including maintaining or restoring structure, function, composition, and connectivity; and
- (C) is developed and implemented through a collaborative process that—
 - (i) includes multiple interested persons representing diverse interests; and
 - (ii)(I) is transparent and nonexclusive; or
 - (II) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 7125 of this title.

(2) Inclusion

A project under this subsection may carry out part of a proposal that complies with the eligibility requirements of the Collaborative Forest Landscape Restoration Program under section 7303(b) of this title.

(c) Limitations

(1) Project size

A project under this section may not exceed 3000 acres.

(2) Location

A project under this section shall be—

- (A) Prioritized within the wildland-urban interface;
- (B) If located outside the wildland-urban interface, limited to areas within Condition Classes 2 or 3 in Fire Regime Groups I, II, or III that contain very high wildfire hazard potential; and
- (C) Limited to areas designated under section 6591a(b) of this title as of March 23, 2018.

(3) Roads

(A) Permanent roads

(i) Prohibition on establishment

A project under this section shall not include the establishment of permanent roads.

(ii) Existing roads

The Secretary may carry out necessary maintenance and repairs on existing permanent roads for the purposes of this section.

(B) Temporary roads

The Secretary shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed.

(4) Extraordinary circumstances

The Secretary shall apply the extraordinary circumstances procedures under section 220.6 of title 36, code of Federal regulations ¹ (or successor regulations), when using the categorical exclusion under this section.

(d) Exclusions

This section does not apply to—

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

(e) Forest management plans

All projects and activities carried out under this section shall be consistent with the land and resource management plan established under section 1604 of this title for the unit of the National Forest System containing the projects and activities.

(f) Public notice and scoping

The Secretary shall conduct public notice and scoping for any project or action proposed in accordance with this section.

(g) Accountability

(1) In general

The Secretary shall prepare an annual report on the use of categorical exclusions under this section that includes a description of all acres (or other appropriate unit) treated through projects carried out under this section.

(2) Submission

Not later than 1 year after March 23, 2018, and each year thereafter, the Secretary shall submit the reports required under paragraph (1) to—

- (A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;
- (B) the Committee on Environment and Public Works of the Senate;
- (C) the Committee on Agriculture of the House of Representatives;
- (D) the Committee on Natural Resources of the House of Representatives; and
- (E) the Government Accountability Office.

(Pub. L. 108–148, title VI, §605, as added Pub. L. 115–141, div. O, title II, §202, Mar. 23, 2018, 132 Stat. 1062.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6511(2) of this title, referred to in subsec. (a), was in the original "the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511(2))" and was translated as referring to section 101(2) of that Act, which is classified to section 6511(2) of this title and defines "authorized hazardous fuel reduction project".

Public Law 91–190, referred to in subsec. (a)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, known as the National Environmental Policy Act of 1969, 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.

March 23, 2018, referred to in subsec. (c)(2)(C), was in the original "the date of enactment of this Act" and was translated as meaning the date of enactment of Pub. L. 115–141, which enacted this section, to reflect the probable intent of Congress.

¹ *So in original. Probably should be "Code of Federal Regulations".*

§6591e. Categorical exclusion for greater sage-grouse and mule deer habitat

(a) Definitions

In this section:

(1) Covered vegetation management activity

(A) In general

The term "covered vegetation management activity" means any activity described in subparagraph (B) that

- (i)(I) is carried out on National Forest System land administered by the Forest Service; or
- (II) is carried out on public land administered by the Bureau of Land Management;
- (ii) with respect to public land, meets the objectives of the order of the Secretary of the Interior numbered 3336 and dated January 5, 2015;
- (iii) conforms to an applicable forest plan or land use plan;
- (iv) protects, restores, or improves greater sage-grouse or mule deer habitat in a sagebrush steppe ecosystem as described in—

(I) Circular 1416 of the United States Geological Survey entitled "Restoration Handbook for Sagebrush Steppe Ecosystems with Emphasis on Greater Sage-Grouse Habitat—Part 1. Concepts for Understanding and Applying Restoration" (2015); or

(II) the habitat guidelines for mule deer published by the Mule Deer Working Group of the Western Association of Fish and Wildlife Agencies;

(v) will not permanently impair—

- (I) the natural state of the treated area;
- (II) outstanding opportunities for solitude;
- (III) outstanding opportunities for primitive, unconfined recreation;
- (IV) economic opportunities consistent with multiple-use management; or
- (V) the identified values of a unit of the National Landscape Conservation System;

- (vi)(I) restores native vegetation following a natural disturbance;
- (II) prevents the expansion into greater sage-grouse or mule deer habitat of—
 - (aa) juniper, pinyon pine, or other associated conifers; or
 - (bb) nonnative or invasive vegetation;

(III) reduces the risk of loss of greater sage-grouse or mule deer habitat from wildfire or any other natural disturbance; or

- (IV) provides emergency stabilization of soil resources after a natural disturbance; and
- (vii) provides for the conduct of restoration treatments that—
 - (I) maximize the retention of old-growth and large trees, as appropriate for the forest type;
 - (II) consider the best available scientific information to maintain or restore the ecological integrity, including maintaining or restoring structure, function, composition, and connectivity;
 - (III) are developed and implemented through a collaborative process that—
 - (aa) includes multiple interested persons representing diverse interests; and
 - (bb)(AA) is transparent and nonexclusive; or
 - (BB) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 7125 of this title; and

(IV) may include the implementation of a proposal that complies with the eligibility requirements of the Collaborative Forest Landscape Restoration Program under section 7303(b) of this title.

(B) Description of activities

An activity referred to in subparagraph (A) is—

- (i) manual cutting and removal of juniper trees, pinyon pine trees, other associated conifers, or other nonnative or invasive vegetation;
- (ii) mechanical mastication, cutting, or mowing, mechanical piling and burning, chaining, broadcast burning, or yarding;
- (iii) removal of cheat grass, medusa head rye, or other nonnative, invasive vegetation;
- (iv) collection and seeding or planting of native vegetation using a manual, mechanical, or aerial method;
- (v) seeding of nonnative, noninvasive, ruderal vegetation only for the purpose of emergency stabilization;
- (vi) targeted use of an herbicide, subject to the condition that the use shall be in accordance with applicable legal requirements, Federal agency procedures, and land use plans;
- (vii) targeted livestock grazing to mitigate hazardous fuels and control noxious and invasive weeds;
- (viii) temporary removal of wild horses or burros in the area in which the activity is being carried out to ensure treatment objectives are met;
- (ix) in coordination with the affected permit holder, modification or adjustment of permissible usage under an annual plan of use of a grazing permit issued by the Secretary concerned to achieve restoration treatment objectives;
- (x) installation of new, or modification of existing, fencing or water sources intended to control use or improve wildlife habitat; or
- (xi) necessary maintenance of, repairs to, rehabilitation of, or reconstruction of an existing permanent road or construction of temporary roads to accomplish the activities described in this subparagraph.

(C) Exclusions

The term "covered vegetation management activity" does not include—

- (i) any activity conducted in a wilderness area or wilderness study area;
- (ii) any activity for the construction of a permanent road or permanent trail;
- (iii) any activity conducted on Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;
- (iv) any activity conducted in an area in which activities under subparagraph (B) would be inconsistent with the applicable land and resource management plan; or
- (v) any activity conducted in an inventoried roadless area.

(2) Secretary concerned

The term "Secretary concerned" means—

- (A) the Secretary of Agriculture, with respect to National Forest System land; and
- (B) the Secretary of the Interior, with respect to public land.

(3) Temporary road

The term "temporary road" means a road that is—

- (A) authorized—
 - (i) by a contract, permit, lease, other written authorization; or
 - (ii) pursuant to an emergency operation;
- (B) not intended to be part of the permanent transportation system of a Federal department or agency;
- (C) not necessary for long-term resource management;
- (D) designed in accordance with standards appropriate for the intended use of the road, taking into consideration—
 - (i) safety;

- (ii) the cost of transportation; and
- (iii) impacts to land and resources; and

(E) managed to minimize—

- (i) erosion; and
- (ii) the introduction or spread of invasive species.

(b) Categorical exclusion

(1) In general

Not later than 1 year after December 20, 2018, the Secretary concerned shall develop a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations (or a successor regulation)) for covered vegetation management activities carried out to protect, restore, or improve habitat for greater sage-grouse or mule deer.

(2) Administration

In developing and administering the categorical exclusion under paragraph (1), the Secretary concerned shall —

(A) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) with respect to National Forest System land, apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or successor regulations), in determining whether to use the categorical exclusion;

(C) with respect to public land, apply the extraordinary circumstances procedures under section 46.215 of title 43, Code of Federal Regulations (or successor regulations), in determining whether to use the categorical exclusion; and

(D) consider—

- (i) the relative efficacy of landscape-scale habitat projects;
- (ii) the likelihood of continued declines in the populations of greater sage-grouse and mule deer in the absence of landscape-scale vegetation management; and
- (iii) the need for habitat restoration activities after wildfire or other natural disturbances.

(c) Implementation of covered vegetative management activities within the range of greater sage-grouse and mule deer

If the categorical exclusion developed under subsection (b) is used to implement a covered vegetative management activity in an area within the range of both greater sage-grouse and mule deer, the covered vegetative management activity shall protect, restore, or improve habitat concurrently for both greater sage-grouse and mule deer.

(d) Long-term monitoring and maintenance

Before commencing any covered vegetation management activity that is covered by the categorical exclusion under subsection (b), the Secretary concerned shall develop a long-term monitoring and maintenance plan, covering at least the 20-year period beginning on the date of commencement, to ensure that management of the treated area does not degrade the habitat gains secured by the covered vegetation management activity.

(e) Disposal of vegetative material

Subject to applicable local restrictions, any vegetative material resulting from a covered vegetation management activity that is covered by the categorical exclusion under subsection (b) may be—

(1) used for—

- (A) fuel wood; or
- (B) other products; or

(2) piled or burned, or both.

(f) Treatment for temporary roads

(1) In general

Notwithstanding subsection (a)(1)(B)(xi), any temporary road constructed in carrying out a covered vegetation management activity that is covered by the categorical exclusion under subsection (b)—

(A) shall be used by the Secretary concerned for the covered vegetation management activity for not more than 2 years; and

(B) shall be decommissioned by the Secretary concerned not later than 3 years after the earlier of the date on which—

- (i) the temporary road is no longer needed; and
- (ii) the project is completed.

(2) Requirement

A treatment under paragraph (1) shall include reestablishing native vegetative cover—

(A) as soon as practicable; but

(B) not later than 10 years after the date of completion of the applicable covered vegetation management activity.

(g) Limitations

(1) Project size

A covered vegetation management activity that is covered by the categorical exclusion under subsection (b) may not exceed 4,500 acres.

(2) Location

A covered vegetation management activity carried out on National Forest System land that is covered by the categorical exclusion under subsection (b) shall be limited to areas designated under section 6591a(b) of this title, as of December 20, 2018.

(Pub. L. 108–148, title VI, §606, as added Pub. L. 115–334, title VIII, §8611, Dec. 20, 2018, 132 Stat. 4848.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(2)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, 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.

§6592. Wildfire risk reduction

(a) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, for the activities described in subsection (c), \$3,369,200,000 for the period of fiscal years 2022 through 2026.

(b) Treatment

Of the Federal land or Indian forest land or rangeland that has been identified as having a very high wildfire hazard potential, the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall, by not later than September 30, 2027, conduct restoration treatments and improve the Fire Regime Condition Class of 10,000,000 acres that are located in—

- (1) the wildland-urban interface; or
- (2) a public drinking water source area.

(c) Activities

Of the amounts made available under subsection (a) for the period of fiscal years 2022 through 2026—

(1) \$20,000,000 shall be made available for entering into an agreement with the Administrator of the National Oceanic and Atmospheric Administration to establish and operate a program that makes use of the Geostationary Operational Environmental Satellite Program to rapidly detect and report wildfire starts in all areas in which the Secretary of the Interior or the Secretary of Agriculture has financial responsibility for wildland fire protection and prevention, of which—

- (A) \$10,000,000 shall be made available to the Secretary of the Interior; and
- (B) \$10,000,000 shall be made available to the Secretary of Agriculture;

(2) \$600,000,000 shall be made available for the salaries and expenses of Federal wildland firefighters in accordance with subsection (d), of which—

- (A) \$120,000,000 shall be made available to the Secretary of the Interior; and
- (B) \$480,000,000 shall be made available to the Secretary of Agriculture;

(3) \$10,000,000 shall be made available to the Secretary of the Interior to acquire technology and infrastructure for each Type I and Type II incident management team to maintain interoperability with respect to the radio frequencies used by any responding agency;

(4) \$30,000,000 shall be made available to the Secretary of Agriculture to provide financial assistance to States, Indian Tribes, and units of local government to establish and operate Reverse-911 telecommunication systems;

(5) \$50,000,000 shall be made available to the Secretary of the Interior to establish and implement a pilot program to provide to local governments financial assistance for the acquisition of slip-on tanker units to establish fleets of vehicles that can be quickly converted to be operated as fire engines;

(6) \$1,200,000 shall be made available to the Secretary of Agriculture, in coordination with the Secretary of the Interior, to develop and publish, not later than 180 days after November 15, 2021, and every 5 years thereafter, a map depicting at-risk communities (as defined in section 6511 of this title), including Tribal at-risk communities;

(7) \$100,000,000 shall be made available to the Secretary of the Interior and the Secretary of Agriculture—

- (A) for—
 - (i) preplanning fire response workshops that develop—
 - (I) potential operational delineations; and
 - (II) select potential control locations; and

- (ii) workforce training for staff, non-Federal firefighters, and Native village fire crews for—
 - (I) wildland firefighting; and

(II) increasing the pace and scale of vegetation treatments, including training on how to prepare and implement large landscape treatments; and

(B) of which—

- (i) \$50,000,000 shall be made available to the Secretary of the Interior; and
- (ii) \$50,000,000 shall be made available to the Secretary of Agriculture;

(8) \$20,000,000 shall be made available to the Secretary of Agriculture to enter into an agreement with a Southwest Ecological Restoration Institute established under the Southwest Forest Health and Wildfire Prevention Act of 2004 (16 U.S.C. 6701 et seq.)—

(A) to compile and display existing data, including geographic data, for hazardous fuel reduction or wildfire prevention treatments undertaken by the Secretary of the Interior or the Secretary of Agriculture, including treatments undertaken with funding provided under this title;

(B) to compile and display existing data, including geographic data, for large wildfires, as defined by the National Wildfire Coordinating Group, that occur in the United States;

(C) to facilitate coordination and use of existing and future interagency fuel treatment data, including geographic data, for the purposes of—

- (i) assessing and planning cross-boundary fuel treatments; and
- (ii) monitoring the effects of treatments on wildfire outcomes and ecosystem restoration services, using the data compiled under subparagraphs (A) and (B);

(D) to publish a report every 5 years showing the extent to which treatments described in subparagraph (A) and previous wildfires affect the boundaries of wildfires, categorized by—

- (i) Federal land management agency;
- (ii) region of the United States; and
- (iii) treatment type; and

(E) to carry out other related activities of a Southwest Ecological Restoration Institute, as authorized by the Southwest Forest Health and Wildfire Prevention Act of 2004 (16 U.S.C. 6701 et seq.);

(9) \$20,000,000 shall be available for activities conducted under the Joint Fire Science Program, of which—

- (A) \$10,000,000 shall be made available to the Secretary of the Interior; and
- (B) \$10,000,000 shall be made available to the Secretary of Agriculture;

(10) \$100,000,000 shall be made available to the Secretary of Agriculture for collaboration and collaboration-based activities, including facilitation, certification of collaboratives, and planning and implementing projects under the Collaborative Forest Landscape Restoration Program established under section 7303 of this title in accordance with subsection (e);

(11) \$500,000,000 shall be made available to the Secretary of the Interior and the Secretary of Agriculture—

(A) for—

(i) conducting mechanical thinning and timber harvesting in an ecologically appropriate manner that maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands; or

(ii) precommercial thinning in young growth stands for wildlife habitat benefits to provide subsistence resources; and

(B) of which—

- (i) \$100,000,000 shall be made available to the Secretary of the Interior; and
- (ii) \$400,000,000 shall be made available to the Secretary of Agriculture;

(12) \$500,000,000 shall be made available to the Secretary of Agriculture, in cooperation with States, to award community wildfire defense grants to at-risk communities in accordance with subsection (f);

(13) \$500,000,000 shall be made available for planning and conducting prescribed fires and related activities, of which—

- (A) \$250,000,000 shall be made available to the Secretary of the Interior; and
- (B) \$250,000,000 shall be made available to the Secretary of Agriculture;

(14) \$500,000,000 shall be made available for developing or improving potential control locations, in accordance with paragraph (7)(A)(i)(II), including installing fuelbreaks (including fuelbreaks studied under subsection (i)), with a focus on shaded fuelbreaks when ecologically appropriate, of which—

- (A) \$250,000,000 shall be made available to the Secretary of the Interior; and
- (B) \$250,000,000 shall be made available to the Secretary of Agriculture;

(15) \$200,000,000 shall be made available for contracting or employing crews of laborers to modify and remove flammable vegetation on Federal land and for using materials from treatments, to the extent practicable, to produce biochar and other innovative wood products, including through the use of existing locally based

organizations that engage young adults, Native youth, and veterans in service projects, such as youth and conservation corps, of which—

- (A) \$100,000,000 shall be made available to the Secretary of the Interior; and
- (B) \$100,000,000 shall be made available to the Secretary of Agriculture;

(16) \$200,000,000 shall be made available for post-fire restoration activities that are implemented not later than 3 years after the date that a wildland fire is contained, of which—

- (A) \$100,000,000 shall be made available to the Secretary of the Interior; and
- (B) \$100,000,000 shall be made available to the Secretary of Agriculture;

(17) \$8,000,000 shall be made available to the Secretary of Agriculture—

- (A) to provide feedstock to firewood banks; and
- (B) to provide financial assistance for the operation of firewood banks; and

(18) \$10,000,000 shall be available to the Secretary of the Interior and the Secretary of Agriculture for the procurement and placement of wildfire detection and real-time monitoring equipment, such as sensors, cameras, and other relevant equipment, in areas at risk of wildfire or post-burned areas.

(d) Wildland firefighters

(1) In general

Subject to the availability of appropriations, not later than 180 days after November 15, 2021, the Secretary of the Interior and the Secretary of Agriculture shall, using the amounts made available under subsection (c)(2), coordinate with the Director of the Office of Personnel Management to develop a distinct "wildland firefighter" occupational series.

(2) Omitted

(3) Current employees

Any individual employed as a wildland firefighter on the date on which the occupational series established under paragraph (1) takes effect may elect—

- (A) to remain in the occupational series in which the individual is employed; or
- (B) to be included in the "wildland firefighter" occupational series established under that paragraph.

(4) Permanent employees; increase in salary

Using the amounts made available under subsection (c)(2), beginning October 1, 2021, the Secretary of the Interior and the Secretary of Agriculture shall—

- (A) seek to convert not fewer than 1,000 seasonal wildland firefighters to wildland firefighters that—
 - (i) are full-time, permanent, year-round Federal employees; and
 - (ii) reduce hazardous fuels on Federal land not fewer than 800 hours per year; and

(B) increase the base salary of a Federal wildland firefighter by the lesser of an amount that is commensurate with an increase of \$20,000 per year or an amount equal to 50 percent of the base salary, if the Secretary concerned, in coordination with the Director of the Office of Personnel Management, makes a written determination that the position of the Federal wildland firefighter is located within a specified geographic area in which it is difficult to recruit or retain a Federal wildland firefighter.

(5) National wildfire coordinating group

Using the amounts made available under subsection (c)(2), not later than October 1, 2022, the Secretary of the Interior and the Secretary of Agriculture shall—

- (A) develop and adhere to recommendations for mitigation strategies for wildland firefighters to minimize exposure due to line-of-duty environmental hazards; and
- (B) establish programs for permanent, temporary, seasonal, and year-round wildland firefighters to recognize and address mental health needs, including post-traumatic stress disorder care.

(e) Collaborative forest landscape restoration program

Subject to the availability of appropriations, not later than 180 days after November 15, 2021, the Secretary of Agriculture shall, using the amounts made available under subsection (c)(10)—

(1) solicit new project proposals under the Collaborative Forest Landscape Restoration Program established under section 7303 of this title (referred to in this subsection as the "Program");

(2) provide up to 5 years of additional funding of any proposal originally selected for funding under the Program prior to September 30, 2018—

(A) that has been approved for an extension of funding by the Secretary of Agriculture prior to November 15, 2021; or

(B) that has been recommended for an extension of funding by the advisory panel established under section 7303(e) of this title prior to November 15, 2021, that the Secretary of Agriculture subsequently approves; and

(3) select project proposals for funding under the Program in a manner that—

- (A) gives priority to a project proposal that will treat acres that—
 - (i) have been identified as having very high wildfire hazard potential; and
 - (ii) are located in—

- (I) the wildland-urban interface; or
- (II) a public drinking water source area;

(B) takes into consideration—

- (i) the cost per acre of Federal land or Indian forest land or rangeland acres described in subparagraph (A) to be treated; and
- (ii) the number of acres described in subparagraph (A) to be treated;

(C) gives priority to a project proposal that is proposed by a collaborative that has successfully accomplished treatments consistent with a written plan that included a proposed schedule of completing those treatments, which is not limited to an earlier proposal funded under the Program; and

(D) discontinues funding for a project that fails to achieve the results included in a project proposal submitted under paragraph (1) for more than 2 consecutive years.

(f) Community wildfire defense grant program

(1) Establishment

Subject to the availability of appropriations, not later than 180 days after November 15, 2021, the Secretary of Agriculture shall, using amounts made available under subsection (c)(12), establish a program, which shall be separate from the program established under section 5133 of title 42, under which the Secretary of Agriculture, in cooperation with the States, shall award grants to at-risk communities, including Indian Tribes—

- (A) to develop or revise a community wildfire protection plan; and
- (B) to carry out projects described in a community wildfire protection plan that is not more than 10 years old.

(2) Priority

In awarding grants under the program described in paragraph (1), the Secretary of Agriculture shall give priority to an at-risk community that is—

- (A) in an area identified by the Secretary of Agriculture as having high or very high wildfire hazard potential;
- (B) a low-income community; or
- (C) a community impacted by a severe disaster.

(3) Community wildfire defense grants

(A) Grant amounts

A grant—

- (i) awarded under paragraph (1)(A) shall be for not more than \$250,000; and
- (ii) awarded under paragraph (1)(B) shall be for not more than \$10,000,000.

(B) Cost sharing requirement

(i) In general

Except as provided in clause (ii), the non-Federal cost (including the administrative cost) of carrying out a project using funds from a grant awarded under the program described in paragraph (1) shall be—

- (I) not less than 10 percent for a grant awarded under paragraph (1)(A); and
- (II) not less than 25 percent for a grant awarded under paragraph (1)(B).

(ii) Waiver

The Secretary of Agriculture may waive the cost-sharing requirement under clause (i) for a project that serves an underserved community.

(C) Eligibility

The Secretary of Agriculture shall not award a grant under paragraph (1) to an at-risk community that is located in a county or community that—

- (i) is located in the continental United States; and
- (ii) has not adopted an ordinance or regulation that requires the construction of new roofs on buildings to adhere to standards that are similar to, or more stringent than—
 - (I) the roof construction standards established by the National Fire Protection Association; or
 - (II) an applicable model building code established by the International Code Council.

(g) Priorities

In carrying out projects using amounts made available under this section, the Secretary of the Interior or the Secretary of Agriculture, acting through the Chief of the Forest Service, as applicable, shall prioritize funding for projects—

- (1) for which any applicable processes under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been completed on November 15, 2021;
- (2) that reduce the likelihood of experiencing uncharacteristically severe effects from a potential wildfire by focusing on areas strategically important for reducing the risks associated with wildfires;
- (3) that maximize the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands;
- (4) that do not include the establishment of permanent roads;
- (5) for which funding would be committed to decommission all temporary roads constructed to carry out the project; and

(6) that fully maintain or contribute toward the restoration of the structure and composition of old growth stands consistent with the characteristics of that forest type, taking into account the contribution of the old growth stand to landscape fire adaption and watershed health, unless the old growth stand is part of a science-based ecological restoration project authorized by the Secretary concerned that meets applicable protection and old growth enhancement objectives, as determined by the Secretary concerned.

(h) Reports

The Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall complete and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives an annual report describing the number of acres of land on which projects carried out using funds made available under this section improved the Fire Regime Condition Class of the land described in subsection (b).

(i) Wildfire prevention study

(1) In general

Not later than 180 days after November 15, 2021, the Secretary of Agriculture shall initiate a study of the construction and maintenance of a system of strategically placed fuelbreaks to control wildfires in western States.

(2) Review

The study under paragraph (1) shall review—

- (A) a full suite of manual, chemical, and mechanical treatments; and
- (B) the effectiveness of the system described in that paragraph in reducing wildfire risk and protecting communities.

(3) Determination

Not later than 90 days after the date of completion of the study under paragraph (1), the Secretary of Agriculture shall determine whether to initiate the preparation of a programmatic environmental impact statement implementing the system described in that paragraph in appropriate locations.

(j) Monitoring, maintenance, and treatment plan and strategy

(1) In general

Not later than 120 days after November 15, 2021, the Secretary of Agriculture and the Secretary of the Interior shall establish a 5-year monitoring, maintenance, and treatment plan that—

(A) describes activities under subsection (c) that the Secretary of Agriculture and the Secretary of the Interior will take to reduce the risk of wildfire by conducting restoration treatments and improving the Fire Regime Condition Class of 10,000,000 acres of Federal land or Tribal Forest land or rangeland that is identified as having very high wildfire hazard potential, not including annual treatments otherwise scheduled;

(B) establishes a process for prioritizing treatments in areas and communities at the highest risk of catastrophic wildfires;

(C) includes an innovative plan and process—

- (i) to leverage public-private partnerships and resources, shared stewardship agreements, good neighbor agreements, and similar contracting authorities;
- (ii) to prioritize projects for which any applicable processes under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been completed as of November 15, 2021;
- (iii) to streamline subsequent projects based on existing statutory or regulatory authorities; and
- (iv) to develop interagency teams to increase coordination and efficiency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) [42 U.S.C. 4321 et seq.]; and

(D) establishes a process for coordinating prioritization and treatment with State and local entities and affected stakeholders.

(2) Strategy

Not later than 5 years after November 15, 2021, the Secretary of Agriculture and the Secretary of the Interior, in coordination with State and local governments, shall publish a long-term, outcome-based monitoring, maintenance, and treatment strategy—

- (A) to maintain forest health improvements and wildfire risk reduction accomplished under this section;
- (B) to continue treatment at levels necessary to address the 20,000,000 acres needing priority treatment over the 10-year period beginning on the date of publication of the strategy; and
- (C) to proactively conduct treatment at a level necessary to minimize the risk of wildfire to surrounding at-risk communities.

(k) Authorized hazardous fuels projects

A project carried out using funding authorized under paragraphs (11)(A)(i), (13), or (14) of subsection (c) shall be considered an authorized hazardous fuel reduction project pursuant to section 6512 of this title.

(Pub. L. 117–58, div. D, title VIII, §40803, Nov. 15, 2021, 135 Stat. 1097.)

REFERENCES IN TEXT

The Southwest Forest Health and Wildfire Prevention Act of 2004, referred to in subsec. (c)(8), is Pub. L. 108–317, **Oct. 5, 2004**, 118 Stat. 1204, which is classified generally to chapter 86 (§6701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6701 of this title and Tables.

This title, referred to in subsec. (c)(8)(A), means title VIII of division D of Pub. L. 117–58, **Nov. 15, 2021**, 135 Stat. 1094, which enacted this section and sections 538a and 6592a to 6592d of this title and amended section 5545 of Title 5, Government Organization and Employees. For complete classification of title VIII to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subsecs. (g)(1) and (j)(1)(C)(ii), (iv), is Pub. L. 91–190, **Jan. 1, 1970**, 83 Stat. 852, 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.

CODIFICATION

Section is comprised of section 40803 of Pub. L. 117–58. Subsec. (d)(2) of section 40803 of Pub. L. 117–58 amended section 5545(d)(1) of Title 5, Government Organization and Employees.

Section was enacted as part of the Infrastructure Investment and Jobs Act, and not as part of the Healthy Forests Restoration Act of 2003 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

DEFINITIONS

For definition of "Indian Tribe" as used in this section, see section 5304 of Title 25, Indians, as made applicable by section 18701(2) of Title 42, The Public Health and Welfare.

§6592a. Ecosystem restoration

(a) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, for the activities described in subsection (b), \$2,130,000,000 for the period of fiscal years 2022 through 2026.

(b) Activities

Of the amounts made available under subsection (a) for the period of fiscal years 2022 through 2026—

(1) \$300,000,000 shall be made available, in accordance with subsection (c), to the Secretary of the Interior and the Secretary of Agriculture—

(A) for—

(i) entering into contracts, including stewardship contracts or agreements, the purpose of each of which shall be to restore ecological health on not fewer than 10,000 acres of Federal land, including Indian forest land or rangeland, and for salaries and expenses associated with preparing and executing those contracts; and

(ii) establishing a Working Capital Fund that may be accessed by the Secretary of the Interior or the Secretary of Agriculture to fund requirements of contracts described in clause (i), including cancellation and termination costs, consistent with section 6591c(h) of this title, and periodic payments over the span of the contract period; and

(B) of which—

(i) \$50,000,000 shall be made available to the Secretary of the Interior to enter into contracts described in subparagraph (A)(i);

(ii) \$150,000,000 shall be made available to the Secretary of Agriculture to enter into contracts described in subparagraph (A)(i); and

(iii) \$100,000,000 shall be made available until expended to the Secretary of the Interior, notwithstanding any other provision of this Act, to establish the Working Capital Fund described in subparagraph (A)(ii);

(2) \$200,000,000 shall be made available to provide to States and Indian Tribes for implementing restoration projects on Federal land pursuant to good neighbor agreements entered into under section 2113a of this title or agreements entered into under section 3115a(b) of title 25, of which—

- (A) \$40,000,000 shall be made available to the Secretary of the Interior; and
- (B) \$160,000,000 shall be made available to the Secretary of Agriculture;

(3) \$400,000,000 shall be made available to the Secretary of Agriculture to provide financial assistance to facilities that purchase and process byproducts from ecosystem restoration projects in accordance with subsection (d);

(4) \$400,000,000 shall be made available to the Secretary of the Interior to provide grants to States, territories of the United States, and Indian Tribes for implementing voluntary ecosystem restoration projects on private or public land, in consultation with the Secretary of Agriculture, that—

(A) prioritizes funding cross-boundary projects; and

(B) requires matching funding from the State, territory of the United States, or Indian Tribe to be eligible to receive the funding;

(5) \$50,000,000 shall be made available to the Secretary of Agriculture to award grants to States and Indian Tribes to establish rental programs for portable skidder bridges, bridge mats, or other temporary water crossing structures, to minimize stream bed disturbance on non-Federal land and Federal land;

(6) \$200,000,000 shall be made available for invasive species detection, prevention, and eradication, including conducting research and providing resources to facilitate detection of invasive species at points of entry and awarding grants for eradication of invasive species on non-Federal land and on Federal land, of which—

(A) \$100,000,000 shall be made available to the Secretary of the Interior; and

(B) \$100,000,000 shall be made available to the Secretary of Agriculture;

(7) \$100,000,000 shall be made available to restore, prepare, or adapt recreation sites on Federal land, including Indian forest land or rangeland, in accordance with subsection (e);

(8) \$200,000,000 shall be made available to restore native vegetation and mitigate environmental hazards on mined land on Federal and non-Federal land, of which—

(A) \$100,000,000 shall be made available to the Secretary of the Interior; and

(B) \$100,000,000 shall be made available to the Secretary of Agriculture;

(9) \$200,000,000 shall be made available to establish and implement a national revegetation effort on Federal and non-Federal land, including to implement the National Seed Strategy for Rehabilitation and Restoration, of which—

(A) \$70,000,000 shall be made available to the Secretary of the Interior; and

(B) \$130,000,000 shall be made available to the Secretary of Agriculture; and

(10) \$80,000,000 shall be made available to the Secretary of Agriculture, in coordination with the Secretary of the Interior, to establish a collaborative-based, landscape-scale restoration program to restore water quality or fish passage on Federal land, including Indian forest land or rangeland, in accordance with subsection (f).

(c) Ecological health restoration contracts

(1) Submission of list of projects to congress

Until the date on which all of the amounts made available to carry out subsection (b)(1)(A)(i) are expended, not later than 90 days before the end of each fiscal year, the Secretary of the Interior and the Secretary of Agriculture shall submit to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Natural Resources and the Committee on Appropriations of the House of Representatives a list of projects to be funded under that subsection in the subsequent fiscal year, including—

(A) a detailed description of each project; and

(B) an estimate of the cost, including salaries and expenses, for the project.

(2) Alternate allocation

Appropriations Acts may provide for alternate allocation of amounts made available under subsection (b)(1), consistent with the allocations under subparagraph (B) of that subsection.

(3) Lack of alternate allocations

If Congress has not enacted legislation establishing alternate allocations described in paragraph (2) by the date on which the Act making full-year appropriations for the Department of the Interior, Environment, and Related Agencies for the applicable fiscal year is enacted into law, amounts made available under subsection (b)(1)(B) shall be allocated by the President.

(d) Wood products infrastructure

The Secretary of Agriculture, in coordination with the Secretary of the Interior, shall—

(1) develop a ranking system that categorizes units of Federal land, including Indian forest land or rangeland, with regard to treating areas at risk of unnaturally severe wildfire or insect or disease infestation, as being—

(A) very low priority for ecological restoration involving vegetation removal;

(B) low priority for ecological restoration involving vegetation removal;

(C) medium priority for ecological restoration involving vegetation removal;

(D) high priority for ecological restoration involving vegetation removal; or

(E) very high priority for ecological restoration involving vegetation removal;

(2) determine, for a unit identified under paragraph (1) as being high or very high priority for ecological restoration involving vegetation removal, if—

(A) a sawmill or other wood-processing facility exists in close proximity to, or a forest worker is seeking to conduct restoration treatment work on or in close proximity to, the unit; and

(B) the presence of a sawmill or other wood-processing facility would substantially decrease or does substantially decrease the cost of conducting ecological restoration projects involving vegetation removal;

(3) in accordance with any conditions the Secretary of Agriculture determines to be necessary, using the amounts made available under subsection (b)(3), provide financial assistance, including a low-interest loan or a loan guarantee, to an entity seeking to establish, reopen, retrofit, expand, or improve a sawmill or other wood-processing facility in close proximity to a unit of Federal land that has been identified under paragraph (1) as high or very high priority for ecological restoration, if the presence of a sawmill or other wood-processing facility would substantially decrease or does substantially decrease the cost of conducting ecological restoration projects involving vegetation removal on the unit of Federal land, including Indian forest land or rangeland, as determined under paragraph (2)(B); and

(4) to the extent practicable, when allocating funding to units of Federal land for ecological restoration projects involving vegetation removal, give priority to a unit of Federal land that—

(A) has been identified under paragraph (1) as being high or very high priority for ecological restoration involving vegetation removal; and

(B) has a sawmill or other wood-processing facility—

(i) that, as determined under paragraph (2)—

(I) exists in close proximity to the unit; and

(II) does substantially decrease the cost of conducting ecological restoration projects involving vegetation removal on the unit; or

(ii) that has received financial assistance under paragraph (3).

(e) Recreation sites

(1) Site restoration and improvements

Of the amounts made available under subsection (b)(7), \$45,000,000 shall be made available to the Secretary of the Interior and \$35,000,000 shall be made available the ¹ Secretary of Agriculture to restore, prepare, or adapt recreation sites on Federal land, including Indian forest land or rangeland, that have experienced or may likely experience visitation and use beyond the carrying capacity of the sites.

(2) Public use recreation cabins

(A) In general

Of the amounts made available under subsection (b)(7), \$20,000,000 shall be made available to the Secretary of Agriculture for—

(i) the operation, repair, reconstruction, and construction of public use recreation cabins on National Forest System land; and

(ii) to the extent necessary, the repair or reconstruction of historic buildings that are to be outleased under section 306121 of title 54.

(B) Inclusion

Of the amount described in subparagraph (A), \$5,000,000 shall be made available to the Secretary of Agriculture for associated salaries and expenses in carrying out that subparagraph.

(C) Agreements

The Secretary of Agriculture may enter into a lease or cooperative agreement with a State, Indian Tribe, local government, or private entity—

(i) to carry out the activities described in subparagraph (A); or

(ii) to manage the renting of a cabin or building described in subparagraph (A) to the public.

(3) Exclusion

A project shall not be eligible for funding under this subsection if—

(A) funding for the project would be used for deferred maintenance, as defined by Federal Accounting Standards Advisory Board; and

(B) the Secretary of the Interior or the Secretary of Agriculture has identified the project for funding from the National Parks and Public Land Legacy Restoration Fund established by section 200402(a) of title 54.

(f) Collaborative-based, aquatic-focused, landscape-scale restoration program

Subject to the availability of appropriations, not later than 180 days after November 15, 2021, the Secretary of Agriculture shall, in coordination with the Secretary of the Interior and using the amounts made available under subsection (b)(10)—

(1) solicit collaboratively developed proposals that—

(A) are for 5-year projects to restore fish passage or water quality on Federal land and non-Federal land to the extent allowed under section 1011a(a) of this title, including Indian forest land or rangeland;

(B) contain proposed accomplishments and proposed non-Federal funding; and

(C) request not more than \$5,000,000 in funding made available under subsection (b)(10);

(2) select project proposals for funding in a manner that—

(A) gives priority to a project proposal that would result in the most miles of streams being restored for the lowest amount of Federal funding; and

(B) discontinues funding for a project that fails to achieve the results included in a proposal submitted under paragraph (1) for more than 2 consecutive years; and

(3) publish a list of—

(A) all of the priority watersheds on National Forest System land;

(B) the condition of each priority watershed on November 15, 2021; and

(C) the condition of each priority watershed on the date that is 5 years after November 15, 2021.

(Pub. L. 117–58, div. D, title VIII, §40804, Nov. 15, 2021, 135 Stat. 1105.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1)(B)(iii), is Pub. L. 117–58, Nov. 15, 2021, 135 Stat. 429, known as the Infrastructure Investment and Jobs Act. For complete classification of this Act to the Code, see Short Title of 2021 Amendment note set out under section 101 of Title 23, Highways, and Tables.

CODIFICATION

Section was enacted as part of the Infrastructure Investment and Jobs Act, and not as part of the Healthy Forests Restoration Act of 2003 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

DEFINITIONS

For definition of "Indian Tribe" as used in this section, see section 5304 of Title 25, Indians, as made applicable by section 18701(2) of Title 42, The Public Health and Welfare.

¹ So in original. Probably should be preceded by "to".

§6592b. Establishment of fuel breaks in forests and other wildland vegetation

(a) Definition of Secretary concerned

In this section, the term "Secretary concerned" means—

(1) the Secretary of Agriculture, with respect to National Forest System land; and

(2) the Secretary of the Interior, with respect to public lands (as defined in section 1702 of title 43) administered by the Bureau of Land Management.

(b) Categorical exclusion established

Forest management activities described in subsection (c) are a category of actions designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the categorical exclusion is documented through a supporting record and decision memorandum.

(c) Forest management activities designated for categorical exclusion

(1) In general

The category of forest management activities designated under subsection (b) for a categorical exclusion are forest management activities described in paragraph (2) that are carried out by the Secretary concerned on public lands (as defined in section 1702 of title 43) administered by the Bureau of Land Management or National Forest System land the primary purpose of which is to establish and maintain linear fuel breaks that are—

(A) up to 1,000 feet in width contiguous with or incorporating existing linear features, such as roads, water infrastructure, transmission and distribution lines, and pipelines of any length on Federal land; and

(B) intended to reduce the risk of uncharacteristic wildfire on Federal land or catastrophic wildfire for an adjacent at-risk community.

(2) Activities

Subject to paragraph (3), the forest management activities that may be carried out pursuant to the categorical exclusion established under subsection (b) are—

- (A) mowing or masticating;
- (B) thinning by manual and mechanical cutting;
- (C) piling, yarding, and removal of slash or hazardous fuels;
- (D) selling of vegetation products, including timber, firewood, biomass, slash, and fenceposts;
- (E) targeted grazing;
- (F) application of—
 - (i) pesticide;
 - (ii) biopesticide; or
 - (iii) herbicide;

- (G) seeding of native species;
- (H) controlled burns and broadcast burning; and
- (I) burning of piles, including jackpot piles.

(3) Excluded activities

A forest management activity described in paragraph (2) may not be carried out pursuant to the categorical exclusion established under subsection (b) if the activity is conducted—

- (A) in a component of the National Wilderness Preservation System;
- (B) on Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress, Presidential proclamation (including the applicable implementation plan), or regulation;
- (C) in a wilderness study area; or
- (D) in an area in which carrying out the activity would be inconsistent with the applicable land management plan or resource management plan.

(4) Extraordinary circumstances

The Secretary concerned shall apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or a successor regulation), in determining whether to use a categorical exclusion under subsection (b).

(d) Acreage and location limitations

Treatments of vegetation in linear fuel breaks covered by the categorical exclusion established under subsection (b)—

- (1) may not contain treatment units in excess of 3,000 acres;
- (2) shall be located primarily in—
 - (A) the wildland-urban interface or a public drinking water source area;
 - (B) if located outside the wildland-urban interface or a public drinking water source area, an area within Condition Class 2 or 3 in Fire Regime Group I, II, or III that contains very high wildfire hazard potential; or
 - (C) an insect or disease area designated by the Secretary concerned as of November 15, 2021; and

(3) shall consider the best available scientific information.

(e) Roads

(1) Permanent roads

A project under this section shall not include the establishment of permanent roads.

(2) Existing roads

The Secretary concerned may carry out necessary maintenance and repairs on existing permanent roads for the purposes of this section.

(3) Temporary roads

The Secretary concerned shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed.

(f) Public collaboration

To encourage meaningful public participation during the preparation of a project under this section, the Secretary concerned shall facilitate, during the preparation of each project—

- (1) collaboration among State and local governments and Indian Tribes; and
- (2) participation of interested persons.

(Pub. L. 117–58, div. D, title VIII, §40806, Nov. 15, 2021, 135 Stat. 1110.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, 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.

CODIFICATION

Section was enacted as part of the Infrastructure Investment and Jobs Act, and not as part of the Healthy Forests Restoration Act of 2003 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

DEFINITIONS

For definition of "Indian Tribe" as used in this section, see section 5304 of Title 25, Indians, as made applicable by section 18701(2) of Title 42, The Public Health and Welfare.

§6592c. Emergency actions

(a) Definitions

In this section:

(1) Authorized emergency action

The term "authorized emergency action" means an action carried out pursuant to an emergency situation determination issued under this section to mitigate the harm to life, property, or important natural or cultural resources on National Forest System land or adjacent land.

(2) Emergency situation

The term "emergency situation" means a situation on National Forest System land for which immediate implementation of 1 or more authorized emergency actions is necessary to achieve 1 or more of the following results:

- (A) Relief from hazards threatening human health and safety.
- (B) Mitigation of threats to natural resources on National Forest System land or adjacent land.

(3) Emergency situation determination

The term "emergency situation determination" means a determination made by the Secretary under subsection (b)(1)(A).

(4) Land and resource management plan

The term "land and resource management plan" means a plan developed under section 1604 of this title.

(5) National Forest System land

The term "National Forest System land" means land of the National Forest System (as defined in section 1609(a) of this title).

(6) Secretary

The term "Secretary" means the Secretary of Agriculture.

(b) Authorized emergency actions to respond to emergency situations

(1) Determination

(A) In general

The Secretary may make a determination that an emergency situation exists with respect to National Forest System land.

(B) Review

An emergency situation determination shall not be subject to objection under the predecisional administrative review processes under part 218 of title 36, Code of Federal Regulations (or successor regulations).

(C) Basis of determination

An emergency situation determination shall be based on an examination of the relevant information.

(2) Authorized emergency actions

After making an emergency situation determination with respect to National Forest System land, the Secretary may carry out authorized emergency actions on that National Forest System land in order to achieve reliefs from hazards threatening human health and safety or mitigation of threats to natural resources on National Forest System land or adjacent land, including through—

- (A) the salvage of dead or dying trees;
- (B) the harvest of trees damaged by wind or ice;

- (C) the commercial and noncommercial sanitation harvest of trees to control insects or disease, including trees already infested with insects or disease;
- (D) the reforestation or replanting of fire-impacted areas through planting, control of competing vegetation, or other activities that enhance natural regeneration and restore forest species;
- (E) the removal of hazardous trees in close proximity to roads and trails;
- (F) the removal of hazardous fuels;
- (G) the restoration of water sources or infrastructure;
- (H) the reconstruction of existing utility lines; and
- (I) the replacement of underground cables.

(3) Relation to land and resource management plans

Any authorized emergency action carried out under paragraph (2) on National Forest System land shall be conducted consistent with the applicable land and resource management plan.

(c) Environmental analysis

(1) Environmental assessment or environmental impact statement

If the Secretary determines that an authorized emergency action requires an environmental assessment or an environmental impact statement pursuant to section 4332(2) of title 42, the Secretary shall study, develop, and describe—

- (A) the proposed agency action, taking into account the probable environmental consequences of the authorized emergency action and mitigating foreseeable adverse environmental effects, to the extent practicable; and
- (B) the alternative of no action.

(2) Public notice

The Secretary shall provide notice of each authorized emergency action that the Secretary determines requires an environmental assessment or environmental impact statement under paragraph (1), in accordance with applicable regulations and administrative guidelines.

(3) Public comment

The Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement under paragraph (1).

(4) Savings clause

Nothing in this subsection prohibits the Secretary from—

- (A) making an emergency situation determination, including a determination that an emergency exists pursuant to section 218.21(a) of title 36, Code of Federal Regulations (or successor regulations); or
- (B) taking an emergency action under section 220.4(b) of title 36, Code of Federal Regulations (or successor regulations).

(d) Administrative review of authorized emergency actions

An authorized emergency action carried out under this section shall not be subject to objection under the predecisional administrative review processes established under section 6515 of this title and section 428 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112–74).

(e) Judicial review of emergency actions

A court shall not enjoin an authorized emergency action under this section if the court determines that the plaintiff is unable to demonstrate that the claim of the plaintiff is likely to succeed on the merits.

(f) Notification and guidance

The Secretary shall provide notification and guidance to each local field office of the Forest Service to ensure awareness of, compliance with, and appropriate use of the authorized emergency action authority under this section.

(Pub. L. 117–58, div. D, title VIII, §40807, Nov. 15, 2021, 135 Stat. 1112.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Infrastructure Investment and Jobs Act, and not as part of the Healthy Forests Restoration Act of 2003 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

§6592d. Joint Chiefs Landscape Restoration Partnership program

(a) Definitions

In this section:

(1) Chiefs

The term "Chiefs" means the Chief of the Forest Service and the Chief of the Natural Resources Conservation Service.

(2) Eligible activity

The term "eligible activity" means an activity—

- (A) to reduce the risk of wildfire;
- (B) to protect water quality and supply; or
- (C) to improve wildlife habitat for at-risk species.

(3) Program

The term "Program" means the Joint Chiefs Landscape Restoration Partnership program established under subsection (b)(1).

(4) Secretary

The term "Secretary" means the Secretary of Agriculture.

(5) Wildland-urban interface

The term "wildland-urban interface" has the meaning given the term in section 6511 of this title.

(b) Establishment

(1) In general

The Secretary shall establish a Joint Chiefs Landscape Restoration Partnership program to improve the health and resilience of forest landscapes across National Forest System land and State, Tribal, and private land.

(2) Administration

The Secretary shall administer the Program by coordinating eligible activities conducted on National Forest System land and State, Tribal, or private land across a forest landscape to improve the health and resilience of the forest landscape by—

- (A) assisting producers and landowners in implementing eligible activities on eligible private or Tribal land using the applicable programs and authorities administered by the Chief of the Natural Resources Conservation Service under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), not including the conservation reserve program established under subchapter B of chapter 1 of subtitle D of that title (16 U.S.C. 3831 et seq.); and
- (B) conducting eligible activities on National Forest System land or assisting landowners in implementing eligible activities on State, Tribal, or private land using the applicable programs and authorities administered by the Chief of the Forest Service.

(c) Selection of eligible activities

The appropriate Regional Forester and State Conservationist shall jointly submit to the Chiefs on an annual basis proposals for eligible activities under the Program.

(d) Evaluation criteria

In evaluating and selecting proposals submitted under subsection (c), the Chiefs shall consider—

- (1) criteria including whether the proposal—
 - (A) reduces wildfire risk in a municipal watershed or the wildland-urban interface;
 - (B) was developed through a collaborative process with participation from diverse stakeholders;
 - (C) increases forest workforce capacity or forest business infrastructure and development;
 - (D) leverages existing authorities and non-Federal funding;
 - (E) provides measurable outcomes; or
 - (F) supports established State and regional priorities; and

(2) such other criteria relating to the merits of the proposals as the Chiefs determine to be appropriate.

(e) Outreach

The Secretary shall provide—

(1) public notice on the websites of the Forest Service and the Natural Resources Conservation Service describing—

- (A) the solicitation of proposals under subsection (c); and
- (B) the criteria for selecting proposals in accordance with subsection (d); and

(2) information relating to the Program and activities funded under the Program to States, Indian Tribes, units of local government, and private landowners.

(f) Exclusions

An eligible activity may not be carried out under the Program—

- (1) in a wilderness area or designated wilderness study area;
- (2) in an inventoried roadless area;
- (3) on any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited; or
- (4) in an area in which the eligible activity would be inconsistent with the applicable land and resource management plan.

(g) Accountability

(1) Initial report

Not later than 1 year after November 15, 2021, the Secretary shall submit to Congress a report providing recommendations to Congress relating to the Program, including a review of—

- (A) funding mechanisms for the Program;
- (B) staff capacity to carry out the Program;
- (C) privacy laws applicable to the Program;
- (D) data collection under the Program;
- (E) monitoring and outcomes under the Program; and
- (F) such other matters as the Secretary considers to be appropriate.

(2) Additional reports

For each of fiscal years 2022 and 2023, the Chiefs shall submit to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate and the Committee on Agriculture and the Committee on Appropriations of the House of Representatives a report describing projects for which funding is provided under the Program, including the status and outcomes of those projects.

(h) Funding

(1) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the Program \$90,000,000 for each of fiscal years 2022 and 2023.

(2) Additional funds

In addition to the funds described in paragraph (1), the Secretary may obligate available funds from accounts used to carry out the existing Joint Chiefs' Landscape Restoration Partnership prior to November 15, 2021, to carry out the Program.

(3) Duration of availability

Funds made available under paragraph (1) shall remain available until expended.

(4) Distribution of funds

Of the funds made available under paragraph (1)—

- (A) not less than 40 percent shall be allocated to carry out eligible activities through the Natural Resources Conservation Service;
- (B) not less than 40 percent shall be allocated to carry out eligible activities through the Forest Service; and
- (C) the remaining funds shall be allocated by the Chiefs to the Natural Resources Conservation Service or the Forest Service—
 - (i) to carry out eligible activities; or
 - (ii) for other purposes, such as technical assistance, project development, or local capacity building.

(Pub. L. 117–58, div. D, title VIII, §40808, Nov. 15, 2021, 135 Stat. 1114.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (b)(2)(A), is Pub. L. 99–198, [Dec. 23, 1985](#), 99 Stat. 1354. Title XII of the Act is classified principally to chapter 58 (§3801 et seq.) of this title. Subchapter B of chapter 1 of subtitle D of title XII of the Act is classified generally to subpart B (§3831 et seq.) of part I of subchapter IV of chapter 58 of this title. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

CODIFICATION

Section was enacted as part of the Infrastructure Investment and Jobs Act, and not as part of the Healthy Forests Restoration Act of 2003 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

DEFINITIONS

For definition of "Indian Tribe" as used in this section, see section 5304 of Title 25, Indians, as made applicable by section 18701(2) of Title 42, The Public Health and Welfare.