



**Forest Service**  
U.S. DEPARTMENT OF AGRICULTURE

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December 2020 (Revised)

# **The Principal Laws Relating to USDA Forest Service State and Private Forestry Programs**

- The Cooperative Forestry Assistance Act of 1978, As Amended Through December 20, 2018
- Economic Action and Rural Development Program Authorities
- Forest Products Conservation and Recycling Program Authorities
- Watershed Restoration and Enhancement (Wyden Amendment)

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# Introduction

**Background:** This publication lists the major laws relating to the Cooperative Forestry Program of the State and Private Forestry (S&PF) mission area of the Forest Service, U.S. Department of Agriculture. It incorporates amendments by Congress to these laws through 2018. In 1876, the Division of Forestry was established in the U.S. Department of Agriculture. Gifford Pinchot became Chief of the Division of Forestry in 1898 and continued its work with the State and private forest owners. In 1908, an Office of State and Private Cooperation was established within the Forest Service. Cooperative work by the Forest Service with States and other partners continued with the 1911 Weeks Act, which supported cooperative fire suppression work, and later the 1924 Clarke–McNary Act to support seedling nursery and tree distribution efforts on private lands.

These authorities have been amended and expanded numerous times including the 1937 Norris–Doxey Cooperative Farm Forestry Act and the 1950 Cooperative Forest Management Act. The 1978 Cooperative Forestry Assistance (CFA) Act repealed and replaced all earlier separate pieces of legislation by consolidating a broad range of State and Private Forestry program authorities involving fire, forest management, forest health, wood utilization, urban forestry, and organizational management assistance to State forestry agencies.

The 1990 Food, Agriculture, Conservation, and Trade Act amended the Cooperative Forestry

Assistance Act of 1978 by adding authorities for forest land easements and conservation (Forest Legacy), broader multiple-use forest management assistance (Forest Stewardship) along with landowner incentives (Stewardship Incentives Program), and expanded authorities for Urban and Community Forestry. The 1990 Act also contained new authorities for economic revitalization assistance to national forest-dependent rural communities and created the National Agroforestry Center.

The 1996 Federal Agriculture Improvement and Reform Act extended the Forestry Incentives Program and amended the Forest Legacy Program to allow for grants to States (Section 7(l)(1)(2)). Section 7(l) of the Cooperative Forestry Assistance Act was further amended by the Interior and Related Agencies Appropriations Act of 2004 (PL 108) by adding paragraph (l)(3) to Section 7.

The Farm Security and Rural Reinvestment Act of 2002 modified the 1978 Cooperative Forestry Assistance Act by repealing the Stewardship Incentives Program and the Forest Incentives Program. This legislation replaced these two authorities with a Forest Land Enhancement Program involving education, technical assistance, and financial cost shares for working with nonindustrial private forest landowners. New authorities were also added in the area of cooperative fire to enhance community fire protection (Community and Private Land Fire Assistance Program).

The Healthy Forest Restoration Act of 2003 added new State and Private Forestry authorities for Biomass Commercial Utilization Grants.

The Food, Conservation, and Energy Act of 2008 had a significant forestry title (Title VIII), as well as addressing forestry through the Conservation and Energy titles (II and IX, respectively). For the first time, national priorities for private forests were established and State forestry agencies were charged with assessing forest resources and developing strategies to address the national priorities.

The Community Forest and Open Space Conservation Program was created to promote the purchase of forest land by communities for community use.

The publication also properly places the Emergency Reforestation Assistance Program as Section 10(A) in Section 10 of CFA, Rural Fire Prevention and Control.

The Agricultural Act of 2014 repealed Forest Land Enhancement, Watershed Forestry Assistance, Cooperative National Forest Products Marketing, Hispanic-Serving Institution Agricultural Land

National Resources Leadership, Tribal Watershed Forestry Assistance, and Forest Biomass for Energy. It amended the state-wide assessment and strategies for forest resources to include private, state or public owned forest to support military installations and extends authority until 2012.

The Agriculture Improvement Act of 2018 amends the support for State assessments and strategies for forest resources until 2023. Also, State and Private Forest Landscape-Scale Restoration Program is used to encourage collaborative, science-based restoration of priority forest landscapes. Further, the Timber Innovation Section highlights programs to support market development for innovative wood products and wood energy.

**Purpose:** This publication is a reference guide for those who administer, implement, and deliver the S&PF program authorities contained in this document. It is also an essential reference for primary partners working in other Federal and State agencies, nongovernmental organizations, and the private sector that work in collaboration with the Forest Service and State agencies in the delivery of these programs.

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# **Part 1. Cooperative Forestry Assistance Act of 1978**

## **(Public Law 95–313; Approved July 1, 1978)**

### **[As Amended Through Public Law 115–334, Effective December 20, 2018]**

[Currency: This publication is a compilation of the text of Public Law 95–313. It was last amended by the public law listed in the “As Amended Through” note above and reflects current law through the date of the enactment of the public law listed at [https:// www.govinfo.gov/app/collection/comps/](https://www.govinfo.gov/app/collection/comps/)]

[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).]

An act to authorize the Secretary of Agriculture to provide cooperative forestry assistance to States and others, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, that this Act may be cited as the “Cooperative Forestry Assistance Act of 1978”.

## **Section 2 [16 U.S.C. 2101 Findings, Purpose, and Policy**

(a) Findings.—Congress finds that—

- (1) most of the productive forest land of the United States is in private, State, and local governmental ownership, and the capacity of the United States to produce renewable forest resources is significantly dependent on such non-Federal forest lands;
- (2) adequate supplies of timber and other forest resources are essential to the United States, and adequate supplies are dependent on efficient methods for establishing, managing, and harvesting trees and processing, marketing, and using wood and wood products;
- (3) nearly one-half of the wood supply of the United States comes from nonindustrial private timberlands and such percentage could rise with expanded assistance programs;
- (4) managed forest lands provide habitats for fish and wildlife, as well as aesthetics, outdoor recreation opportunities, and other forest resources;
- (5) the soil, water, and air quality of the United States can be maintained and improved through good stewardship of privately held forest resources;
- (6) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;
- (7) fires in rural areas threaten human lives, property, forests and other resources, and Federal-State cooperation in forest fire protection has proven effective and valuable;

- (8) trees and forests are of great environmental and economic value to urban areas;
  - (9) managed forests contribute to improving the quality, quantity, and timing of water yields that are of broad benefit to society;
  - (10) over half the forest lands of the United States are in need of some type of conservation treatment;
  - (11) forest landowners are being faced with increased pressure to convert their forest land to development and other purposes;
  - (12) increased population pressures and user demands are being placed on private, as well as public, landholders to provide a wide variety of products and services, including fish and wildlife habitat, aesthetic quality, and recreational opportunities;
  - (13) stewardship of privately held forest resources requires a long-term commitment that can be fostered through local, State, and Federal governmental actions;
  - (14) the Department of Agriculture, through the coordinated efforts of its agencies with forestry responsibilities, cooperating with other Federal agencies, State foresters, and State political subdivisions, has the expertise and experience to assist private landowners in achieving individual goals and public benefits regarding forestry;
  - (15) the products and services resulting from nonindustrial private forest land stewardship provide income and employment that contribute to the economic health and diversity of rural communities; and
  - (16) sustainable agroforestry systems and tree planting in semiarid lands can improve environmental quality and maintain farm yields and income.
  - (17) <sup>1</sup>
  - (18) the same forest resource supply, protection, and management issues that exist in the United States are also present on an international scale, and the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other purposes, over-grazing, over-harvesting, and other causes which pose a direct adverse threat to people, the global environment, and the world economy.
- (b) Purpose.—It is the purpose of this Act to authorize the Secretary of Agriculture (hereafter in this Act referred to as the “Secretary”), with respect to non-Federal forest lands<sup>2</sup> of the United States, to assist in—

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<sup>1</sup> There is no paragraph (17). Section 607(b) (1)(C) of Public Law 101–513 (104 Stat. 2072) amended section 2(a) of the Cooperative Forestry Assistance Act of 1978 by adding at the end paragraph (18). Public Law 101–513, also known as the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, was approved on November 5, 1990. On November 28, 1990, section 1212 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3521) amended section 2 in its entirety without taking into account the recent amendments made by Public Law 101–513. Consequently, paragraph (18) no longer appears in the text of section 2(a).

<sup>2</sup> Regarding subsection (b): Section 607(b)(2) of Public Law 101–513 (104 Stat. 2072, approved November 5, 1990) attempted to amend section 2(b) of the Cooperative Forestry Assistance Act of 1978 by inserting “in the United States, and forest lands in foreign countries,” after “non-Federal forest lands,” the first place it appears and in paragraph (10). Two problems prevent execution of the amendment. First, a comma does not appear in the phrase “non-Federal forest lands”. Second, even if the comma appeared, section 1212 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3521) amended section 2 in its entirety on November 28, 1990, without taking into account the recent amendments made by Public Law 101–513.



- (1) the establishment of a coordinated and cooperative Federal, State, and local forest stewardship program for management of the non-Federal forest lands;
  - (2) the encouragement of the production of timber;
  - (3) the prevention and control of insects and diseases affecting trees and forests;
  - (4) the prevention and control of rural fires;
  - (5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;
  - (6) the improvement and maintenance of fish and wildlife habitat;
  - (7) the planning and conduct of urban forestry programs;
  - (8) broadening existing forest management, fire protection, and insect and disease protection programs on non-Federal forest lands to meet the multiple use objectives of landowners in an environmentally sensitive manner;
  - (9) providing opportunities to private landowners to protect ecologically valuable and threatened non-Federal forest lands; and
  - (10) strengthening educational, technical, and financial assistance programs that provide assistance to owners of non-Federal forest lands.
- (c) **Priorities.**—In allocating funds appropriated or otherwise made available under this Act, the Secretary shall focus on the following national private forest conservation priorities, notwithstanding other priorities specified elsewhere in this Act:
- (1) Conserving and managing working forest landscapes for multiple values and uses.
  - (2) Protecting forests from threats, including catastrophic wildfires, hurricanes, tornados, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats.
  - (3) Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.
- (d) **Reporting Requirement.**—Not later than September 30, 2011, the Secretary shall submit to Congress a report describing how funds were used under this Act, and through other programs administered by the Secretary, to address the national priorities specified in subsection (c) and the outcomes achieved in meeting the national priorities.
- (e) **Policy.**—It is the policy of Congress that it is in the national interest for the Secretary to work through and in cooperation with State foresters, or equivalent State officials, nongovernmental organizations, and the private sector in implementing Federal programs affecting non-Federal forest lands.
- (f) **Construction.**—This Act shall be construed to complement the policies and direction under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

## **Section 2A. [16 U.S.C. 2101a] Statewide Assessment and Strategies for Forest Resources**

- (a) **Assessment and Strategies for Forest Resources.**—For a State to be eligible to receive funds under the authorities of this Act, the State forester of that State or equivalent State official shall develop and submit to the Secretary, not later than two years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the following:
- (1) A statewide assessment of forest resource conditions, including—
    - (A) the conditions and trends of forest resources in that State;
    - (B) the threats to forest lands and resources in that State consistent with the national priorities specified in section 2(c);
    - (C) any areas or regions of that State that are a priority; and
    - (D) any multi-State areas that are a regional priority.
  - (2) A long-term statewide forest resource strategy, including—
    - (A) strategies for addressing threats to forest resources in the State outlined in the assessment required by paragraph (1); and
    - (B) a description of the resources necessary for the State forester or equivalent State official from all sources to address the statewide strategy.
- (b) **Updating.**—At such times as the Secretary determines to be necessary, the State forester or equivalent State official shall update and resubmit to the Secretary the Statewide assessment and Statewide strategy required by subsection (a).
- (c) **Coordination.**—In developing or updating the statewide assessment and Statewide strategy required by subsection (a), the State Forester or equivalent State official shall coordinate with—
- (1) the State Forest Stewardship Coordinating Committee established for the State under section 19(b);
  - (2) the State wildlife agency, with respect to strategies contained in the State wildlife action plans;
  - (3) the State Technical Committee;
  - (4) applicable Federal land management agencies;
  - (5) as feasible, appropriate military installations where the voluntary participation and management of private or State-owned or other public forestland is able to support, promote, and contribute to the missions of such installations; and
  - (6) for purposes of the Forest Legacy Program under section 7, the State lead agency designated by the Governor.
- (d) **Incorporation of Other Plans.**—In developing or updating the Statewide assessment and Statewide strategy required by subsection (a), the State forester or equivalent State official shall incorporate any forest management plan of the State, including community wildfire protection plans and State wildlife action plans.

- (e) Sufficiency.—Once approved by the Secretary, a Statewide assessment and Statewide strategy developed under subsection (a) shall be deemed to be sufficient to satisfy all relevant State planning and assessment requirements under this Act.
- (f) Funding.—
  - (1) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section up to \$10,000,000 for each of fiscal years 2008 through 2023.
  - (2) Additional Funding Sources.—In addition to the funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1) to carry out this section, the Secretary may use any other funds made available for planning under this Act to carry out this section, except that the total amount of combined funding used to carry out this section may not exceed \$10,000,000 in any fiscal year.
- (g) Annual Report on Use of Funds.—The State forester or equivalent State official shall submit to the Secretary an annual report detailing how funds made available to the State under this Act are being used.

### **Section 3. [16 U.S.C. 2102] Rural Forestry Assistance**

- (a) Assistance to Forest Landowners and Others.—The Secretary may provide financial, technical, educational, and related assistance to State foresters or equivalent State officials, and State extension directors, to enable such officials to provide technical information, advice, and related assistance to private forest land owners and managers, vendors, forest resource operators, forest resource professionals, public agencies, and individuals to enable such persons to carry out activities that are consistent with the purposes of this Act, including—
  - (1) protecting, maintaining, enhancing, restoring, and preserving forest lands and the multiple values and uses that depend on such lands;
  - (2) identifying, protecting, maintaining, enhancing, and preserving wildlife and fish species, including threatened and endangered species, and their habitats;
  - (3) implementing forest management technologies;
  - (4) selecting, producing, and marketing alternative forest crops, products and services from forest lands;
  - (5) protecting forest land from damage caused by fire, insects, disease, and damaging weather;
  - (6) managing the rural-land and urban-land interface to balance the use of forest resources in and adjacent to urban and community areas;
  - (7) identifying and managing recreational forest land resources;
  - (8) identifying and protecting the aesthetic character of forest lands;
  - (9) protecting forest land from conversion to alternative uses; and
  - (10) the management of resources of forest lands, including—
    - (A) the harvesting, processing, and marketing of timber and other forest resources and the marketing and utilization of wood and wood products;

- (B) the conversion of wood to energy for domestic, industrial, municipal, and other uses;
  - (C) the planning, management, and treatment of forest land, including site preparation, reforestation, thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of timber and other forest resources;
  - (D) ensuring that forest regeneration or reforestation occurs if needed to sustain long-term resource productivity;
  - (E) protecting and improving forest soil fertility and the quality, quantity, and timing of water yields; and
  - (F) encouraging the investment of a portion of the proceeds from the sale of timber or other forest resources in stewardship activities that preserve, protect, maintain, and enhance their forest land.
- (b) State Forestry Assistance.—The Secretary is authorized to provide financial, technical, and related assistance to State foresters, or equivalent State officials, to—
- (1) develop genetically improved tree seeds;
  - (2) develop and contract for the development of field arboreturns, greenhouses, and tree nurseries, in cooperation with a State, to facilitate production and distribution of tree seeds and seedlings in States where the Secretary determines that there is an inadequate capacity to carry out present and future reforestation needs;
  - (3) procure, produce, and distribute tree seeds and trees for the purpose of establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;
  - (4) plant tree seeds and seedlings on non-Federal forest lands that are suitable for the production of timber, recreation, and for other benefits associated with the growing of trees;
  - (5) plan, organize, and implement measures on non-Federal forest lands, including thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of trees and other vegetation, fish and wildlife habitat, and water yielded therefrom; and
  - (6) protect or improve soil fertility on non-Federal forest lands and the quality, quantity, and timing of water yields there from.
- (c) Implementation.—In implementing this section, the Secretary shall cooperate with other Federal, State, and local natural resource management agencies, universities and the private sector.
- (d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### **[Section 4. Omitted]**

[Section 4 was repealed by section 8001(a) of Public Law 113–79.]

## **Section 5. [16 U.S.C. 2103a] Forest Stewardship Program**

- (a) Establishment.—The Secretary, in consultation with State foresters or equivalent State officials, shall establish a Forest Stewardship Program (hereafter referred to in this section as the “Program”) to encourage the long-term stewardship of nonindustrial private forest lands by assisting owners of such lands to more actively manage their forest and related resources by utilizing existing State, Federal, and private sector resource management expertise and assistance programs.
- (b) Goal.—The goal of the Program shall be to enter at least 25,000,000 acres of nonindustrial private forest lands in the Program by December 31, 1995.
- (c) Definition.—For the purposes of this section, the term “nonindustrial private forest lands” means rural, as determined by the Secretary, lands with existing tree cover, or suitable for growing trees, and owned by any private individual, group, association, corporation, Indian tribe, or other private legal entity.
- (d) Implementation.—In carrying out the Program, the Secretary, in consultation with State foresters or equivalent State officials, shall provide financial, technical, educational, and related assistance to State foresters or equivalent State officials, including assistance to help such State foresters or equivalent officials to provide financial assistance to other State and local natural resource entities, both public and private, and land-grant universities for the delivery of information and professional assistance to owners of nonindustrial private forest lands. Such information and assistance shall be directed to help such owners understand and evaluate alternative actions they might take, including—
  - (1) managing and enhancing the productivity of timber, fish and wildlife habitat, water quality, wetlands, recreational resources, and the aesthetic value of forest lands;
  - (2) investing in practices to protect, maintain, and enhance the resources identified in paragraph (1);
  - (3) ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest resources and provide the environmental benefits that result; and
  - (4) protecting their forests from damage caused by fire, insects, disease, and damaging weather.
- (e) Eligibility.—All nonindustrial private forest lands that are not in management under Federal, State, or private sector financial and technical assistance programs existing on the date of enactment of this section are eligible for assistance under the Program. Nonindustrial private forest lands that are managed under such existing programs are eligible for assistance under the Program if forest management activities are expanded and enhanced and the landowner agrees to meet the requirements of this Act.
- (f) Duties of Owners.—To enter forest land into the Program, landowners shall—
  - (1) prepare and submit to the State forester or equivalent State official a forest stewardship plan that meets the requirements of this section and that—
    - (A) is prepared by a professional resource manager;

- (B) identifies and describes actions to be taken by the landowner to protect soil, water, range, aesthetic quality, recreation, timber, water, and fish and wildlife resources on such land in a manner that is compatible with the objectives of the landowner; and
- (C) is approved by the State forester, or equivalent State official; and
- (2) agree that all activities conducted on such land shall be consistent with the stewardship plan.
- (g) Stewardship Recognition.—The Secretary, in consultation with State foresters or equivalent State officials, is encouraged to develop an appropriate recognition program for landowners who practice stewardship management on their lands, with an appropriate, special recognition symbol and title.
- (h) Authorization of Appropriations.—There are hereby authorized to be appropriated \$25,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary thereafter, to carry out this section.

## **[Section 6. Omitted]**

[Section 6 was repealed by section 8002 of Public Law 113–79.]

## **Section 7. [16 U.S.C. 2103c] Forest Legacy Program**

- (a) Establishment and Purpose.—The Secretary shall establish a program, to be known as the Forest Legacy Program, in cooperation with appropriate State, regional, and other units of government for the purposes of ascertaining and protecting environmentally important forest areas that are threatened by conversion to nonforest uses and, through the use of conservation easements and other mechanisms, for promoting forest land protection and other conservation opportunities. Such purposes shall also include the protection of important scenic, cultural, fish, wildlife, and recreational resources, riparian areas, and other ecological values.
- (b) State and Regional Forest Legacy Programs.—The Secretary shall exercise the authority under subsection (a) in conjunction with State or regional programs that the Secretary deems consistent with this section.
- (c) Interests in Land.—In addition to the authorities granted under section 6 of the Act of March 1, 1911 (16 U.S.C. 515), and section 11(a) of the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428a (a)), the Secretary may acquire from willing landowners lands and interests therein, including conservation easements and rights of public access, for Forest Legacy Program purposes. The Secretary shall not acquire conservation easements with title held in common ownership with any other entity.

(d) Implementation.—

- (1) In General.—Lands and interests therein acquired under subsection (c) may be held in perpetuity for program and easement administration purposes as the Secretary may provide. In administering lands and interests therein under the program, the Secretary shall identify the environmental values to be protected by entry of the lands into the program, management activities which are planned and the manner in which they may affect the values identified, and obtain from the land-owner other information determined appropriate for administration and management purposes.
  - (2) Initial Programs.—Not later than November 28, 1991, the Secretary shall establish a regional program in furtherance of the Northern Forest Lands Study in the States of New York, New Hampshire, Vermont, and Maine under Public Law 100–446. The Secretary shall establish additional programs in each of the Northeast, Midwest, South, and Western regions of the United States, and the Pacific Northwest (including the State of Washington), on the preparation of an assessment of the need for such programs.
- (e) Eligibility.—Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 19(b) and similar regional organizations, the Secretary shall establish eligibility criteria for the designation of forest areas from which lands may be entered into the Forest Legacy Program and subsequently select such appropriate areas. To be eligible, such areas shall have significant environmental values or shall be threatened by present or future conversion to nonforest uses. Of land proposed to be included in the Forest Legacy Program, the Secretary shall give priority to lands which can be effectively protected and managed, and which have important scenic or recreational values; riparian areas; fish and wildlife values, including threatened and endangered species; or other ecological values.
- (f) Application.—For areas included in the Forest Legacy Program, an owner of lands or interests in lands who wishes to participate may prepare and submit an application at such time in such form and containing such information as the Secretary may prescribe. The Secretary shall give reasonable advance notice for the submission of all applications to the State forester, equivalent State official, or other appropriate State or regional natural resource management agency. If applications exceed the ability of the Secretary to fund them, priority shall be given to those forest areas having the greatest need for protection pursuant to the criteria described in subsection (e).
- (g) State Consent.—Where a State has not approved the acquisition of land under section 6 of the Act of March 1, 1911 (16 U.S.C. 515), the Secretary shall not acquire lands or interests therein under authority granted by this section outside an area of that State designated as a part of a program established under subsection (b).

(h) Forest Management Activities.—

- (1) In General.—Conservation easements or deed reservations acquired or reserved pursuant to this section may allow forest management activities, including timber management, on areas entered in the Forest Legacy Program insofar as the Secretary deems such activities consistent with the purposes of this section.
- (2) Assignment of Responsibilities.—For Forest Legacy Program areas, the Secretary may delegate or assign management and enforcement responsibilities over federally owned lands and interests in lands only to another governmental entity.

(i) Duties of Owners.—Under the terms of a conservation easement or other property interest acquired under subsection (b), the landowner shall be required to manage property in a manner that is consistent with the purposes for which the land was entered in the Forest Legacy Program and shall not convert such property to other uses. Hunting, fishing, hiking, and similar recreational uses shall not be considered inconsistent with the purposes of this program.

(j) Compensation and Cost Sharing.—

- (1) Compensation.—The Secretary shall pay the fair market value of any property interest acquired under this section. Payments under this section shall be in accordance with Federal appraisal and acquisition standards and procedures.
- (2) Cost Sharing.—In accordance with terms and conditions that the Secretary shall prescribe, costs for the acquisition of lands or interests therein or project costs shall be shared among participating entities including regional organizations, State and other governmental units, landowners, corporations, or private organizations. Such costs may include, but are not limited to, those associated with planning, administration, property acquisition, and property management. To the extent practicable, the Federal share of total program costs shall not exceed 75 percent, including any in-kind contribution.

(k) Easements.—

- (1) Reserved Interest Deeds.—As used in this section, the term “conservation easement” includes an easement utilizing a reserved interest deed where the grantee acquires all rights, title, and interests in a property, except those rights, title, and interests that may run with the land that are expressly reserved by a grantor.
- (2) Prohibitions on Limitations.—Notwithstanding any provision of State law, no conservation easement held by the United States or its successors or assigns under this section shall be limited in duration or scope or be defeasible by—
  - (A) the conservation easement being in gross or appurtenant;
  - (B) the management of the conservation easement having been delegated or assigned to a non-Federal entity;
  - (C) any requirement under State law for re-recordation or renewal of the easement; or



- (D) any future disestablishment of a Forest Legacy Program area or other Federal project for which the conservation easement was originally acquired.
- (3) Construction.—Notwithstanding any provision of State law, conservation easements shall be construed to effect the Federal purposes for which they were acquired and, in interpreting their terms, there shall be no presumption favoring the conservation easement holder or fee owner.
- (l) Optional State Grants.—
  - (1) In General.—The Secretary shall, at the request of a participating State, provide a grant to the State to carry out the Forest Legacy Program in the State.
  - (2) Administration.—If a State elects to receive a grant under this subsection—
    - (A) the Secretary shall use a portion of the funds made available under subsection (m), as determined by the Secretary, to provide a grant to the State; and
    - (B) the State shall use the grant to carry out the Forest Legacy Program in the State, including the acquisition by the State of lands and interests in lands.
  - (3) Transfer of Forest Legacy Program Land.—
    - (A) In General.—Subject to any terms and conditions that the Secretary may require (including the requirements described in subparagraph (B)), the Secretary may, at the request of the State of Vermont, convey to the State, by quitclaim deed, without consideration, any land or interest in land acquired in the State under the Forest Legacy Program.
    - (B) Requirements.—In conveying land or an interest in land under subparagraph (A), the Secretary may require that—
      - (i) the deed conveying the land or interest in land include requirements for the management of the land in a manner that—
        - (I) conserves the land or interest in land; and
        - (II) is consistent with any other Forest Legacy Program purposes for which the land or interest in land was acquired;<sup>3</sup>
      - (ii) if the land or interest in land is subsequently sold, exchanged, or otherwise disposed of by the State of Vermont, the State shall—
        - (I) reimburse the Secretary in an amount that is based on the current market value of the land or interest in land in proportion to the amount of consideration paid by the United States for the land or interest in land; or
        - (II) convey to the Secretary land or an interest in land that is equal in value to the land or interest in land conveyed.
    - (C) Disposition of Funds.—Amounts received by the Secretary under subparagraph (B)(ii) shall be credited to the Wildland Fire Management account, to remain available until expended.
  - (m) Appropriation.—There are authorized to be appropriated such sums as may be necessary to carry out this section

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<sup>3</sup> So in law. The word “and” should appear after the semicolon at the end of clause (i) of subsection (l)(3)(B).

## **Section 7A. [16 U.S.C. 2103d] Community Forest and Open Space Conservation Program**

### **(a) Definitions.—In this section:**

- (1) Eligible Entity.**—The term “eligible entity” means a local governmental entity, Indian tribe, or nonprofit organization that owns or acquires a parcel under the program.
- (2) Indian Tribe.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
- (3) Local Governmental Entity.**—The term “local governmental entity” includes any municipal government, county government, or other local government body with jurisdiction over local land use decisions.
- (4) Nonprofit Organization.**—The term “nonprofit organization” means any organization that—
  - (A)** is described in section 170(h)(3) of the Internal Revenue Code of 1986; and
  - (B)** operates in accordance with 1 or more of the purposes specified in section 170(h)(4)(A) of that Code.
- (5) Program.**—The term “Program” means the community forest and open space conservation program established under subsection (b).
- (6) Secretary.**—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

### **(b) Establishment.**—The Secretary shall establish a program, to be known as the “community forest and open space conservation program”.

### **(c) Grant Program.—**

- (1) In General.**—The Secretary may award grants to eligible entities to acquire private forest land, to be owned in fee simple, that—
  - (A)** are threatened by conversion to nonforest uses; and
  - (B)** provide public benefits to communities, including—
    - (i)** economic benefits through sustainable forest management;
    - (ii)** environmental benefits, including clean water and wildlife habitat;
    - (iii)** benefits from forest-based educational programs, including vocational education programs in forestry;
    - (iv)** benefits from serving as models of effective forest stewardship for private landowners; and
    - (v)** recreational benefits, including hunting and fishing.
- (2) Federal Cost Share.**—An eligible entity may receive a grant under the Program in an amount equal to not more than 50 percent of the cost of acquiring 1 or more parcels, as determined by the Secretary.
- (3) Non-Federal Share.**—As a condition of receipt of the grant, an eligible entity that receives a grant under the Program shall provide, in cash, donation, or in kind, a non-Federal matching share in an amount that is at least equal to the amount of the grant received.

- (4) Appraisal of Parcels.—To determine the non-Federal share of the cost of a parcel of privately-owned forest land under paragraph (2), an eligible entity shall require appraisals of the land that comply with the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference.
- (5) Application.—An eligible entity that seeks to receive a grant under the Program shall submit to the State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) an application that includes—
  - (A) a description of the land to be acquired;
  - (B) a forest plan that provides—
    - (i) a description of community benefits to be achieved from the acquisition of the private forest land; and
    - (ii) an explanation of the manner in which any private forest land to be acquired using funds from the grant will be managed; and
  - (C) such other relevant information as the Secretary may require.
- (6) Effect on Trust Land.—
  - (A) Ineligibility.—The Secretary shall not provide a grant under the Program for any project on land held in trust by the United States (including Indian reservations and allotment land).
  - (B) Acquired Land.—No land acquired using a grant provided under the Program shall be converted to land held in trust by the United States on behalf of any Indian tribe.
- (7) Applications to Secretary.—The State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) shall submit to the Secretary a list that includes a description of each project submitted by an eligible entity at such times and in such form as the Secretary shall prescribe.
- (d) Duties of Eligible Entity.—An eligible entity shall provide public access to, and manage, forest land acquired with a grant under this section in a manner that is consistent with the purposes for which the land was acquired under the Program.
- (e) Prohibited Uses.—
  - (1) In General.—Subject to paragraphs (2) and (3), an eligible entity that acquires a parcel under the Program shall not sell the parcel or convert the parcel to nonforest use.
  - (2) Reimbursement of Funds.—An eligible entity that sells or converts to nonforest use a parcel acquired under the Program shall pay to the Federal Government an amount equal to the greater of the current sale price, or current appraised value, of the parcel.
  - (3) Loss of Eligibility.—An eligible entity that sells or converts a parcel acquired under the Program shall not be eligible for additional grants under the Program.

- (f) State Administration and Technical Assistance.—The Secretary may allocate not more than 10 percent of all funds made available to carry out the Program for each fiscal year to State foresters or equivalent officials (including equivalent officials of Indian tribes) for Program administration and technical assistance.
- (g) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

## **Section 8. [16 U.S.C. 2104] Forest Health Protection**

- (a) In General.—The Secretary may protect trees and forests and wood products, stored wood, and wood in use directly on the National Forest System and, in cooperation with others, on other lands in the United States, from natural and man-made causes, to—
  - (1) enhance the growth and maintenance of trees and forests;
  - (2) promote the stability of forest-related industries and employment associated therewith through the protection of forest resources;
  - (3) aid in forest fire prevention and control;
  - (4) conserve forest cover on watersheds, shelterbelts, and windbreaks;
  - (5) protect outdoor recreation opportunities and other forest resources; and
  - (6) extend timber supplies by protecting wood products, stored wood, and wood in use.
- (b) Activities.—Subject to subsections (c), (d), and (e) and to such other conditions the Secretary may prescribe, the Secretary may, directly on the National Forest System, in cooperation with other Federal departments on other Federal lands, and in cooperation with State foresters, or equivalent State officials, subdivisions of States, agencies, institutions, organizations, or individuals on non-Federal lands—
  - (1) conduct surveys to detect and appraise insect infestations and disease conditions and man-made stresses affecting trees and establish a monitoring system throughout the forests of the United States to determine detrimental changes or improvements that occur over time, and report annually concerning such surveys and monitoring;
  - (2) determine the biological, chemical, and mechanical measures necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease conditions affecting trees;
  - (3) plan, organize, direct, and perform measures the Secretary determines necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease epidemics affecting trees;
  - (4) provide technical information, advice, and related assistance on the various techniques available to maintain a healthy forest and in managing and coordinating the use of pesticides and other toxic substances applied to trees and other vegetation, and to wood products, stored wood, and wood in use;
  - (5) develop applied technology and conduct pilot tests of research results prior to the full-scale application of such technology in affected forests;

- (6) promote the implementation of appropriate silvicultural or management techniques that may improve or protect the health of the forests of the United States; and
  - (7) take any other actions the Secretary determines necessary to accomplish the objectives and purposes of this section.
- (c) **Consent of Entity.**—Operations under this section to prevent, retard, control, or suppress insects or diseases affecting forests and trees on land not controlled or administered by the Secretary shall not be conducted without the consent, cooperation, and participation of the entity having ownership of or jurisdiction over the affected land.
- (d) **Contribution by Entity.**—No money appropriated to implement this section shall be expended to prevent, retard, control, or suppress insects or diseases affecting trees on non-Federal land until the entity having ownership of or jurisdiction over the affected land contributes, or agrees to contribute, to the work to be done in the amount and in the manner determined appropriate by the Secretary.
- (e) **Allotments to Other Agencies.**—The Secretary may, in the Secretary's discretion, and out of any money appropriated to implement this section, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in the amounts the Secretary determines necessary to prevent, retard, control, or suppress insect infestations and disease epidemics affecting trees on those lands.
- (f) **Limitation on use of Appropriations.**—
- (1) **Removing Dead Trees.**—No amounts appropriated shall be used to—
    - (A) pay the cost of felling and removing dead or dying trees unless the Secretary determines that such actions are necessary to prevent the spread of a major insect infestation or disease epidemic severely affecting trees; or
    - (B) compensate for the value of any property injured, damaged, or destroyed by any cause.
  - (2) **Insects and Diseases Affecting Trees.**—The Secretary may procure materials and equipment necessary to prevent, retard, control, or suppress insects and diseases affecting trees without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), under whatever procedures the Secretary may prescribe, if the Secretary determines that such action is necessary and in the public interest.
- (g) **Partnerships.**—The Secretary, by contract or cooperative agreement, may provide financial assistance through the Forest Service to State foresters or equivalent State officials, and private forestry and other organizations, to monitor forest health and protect the forest lands of the United States. The Secretary shall require contribution by the non-Federal entity in the amount and in the manner determined appropriate. Such non-Federal share may be in the form of cash, services, or equipment, as determined appropriate by the Secretary.
- (h) **Authorization of Appropriations.**—There are authorized to be appropriated annually such sums as may be necessary to carry out subsections (a) through (g).

(i) Integrated Pest Management.—

- (1) In General.—Subject to the provisions of subsections (c) and (e), the Secretary shall, in cooperation with State foresters or equivalent State officials, subdivisions of States, or other entities on non-Federal lands (hereafter in this subsection referred to as the “cooperator”)—
  - (A) provide cost-share assistance to such cooperators who have established an acceptable integrated pest management strategy, as determined by the Secretary, that will prevent, retard, control, or suppress gypsy moth, southern pine beetle, spruce budworm infestations, or other major insect infestations in an amount no less than 50 percent nor greater than 75 percent of the cost of implementing such strategy; and
  - (B) upon request, assist the cooperator in the development of such integrated pest management strategy.
- (2) Authorization of Appropriations.—There are hereby authorized to be appropriated annually \$10,000,000 to implement this subsection.

## **Section 9. [16 U.S.C. 2105] Urban and Community Forestry Assistance**

(a) Findings.—The Congress finds that—

- (1) the health of forests in urban areas and communities, including cities, their suburbs, and towns, in the United States is on the decline;
- (2) forest lands, shade trees, and open spaces in urban areas and communities improve the quality of life for residents;
- (3) forest lands and associated natural resources enhance the economic value of residential and commercial property in urban and community settings;
- (4) urban trees are 15 times more effective than forest trees at reducing the buildup of carbon dioxide and aid in promoting energy conservation through mitigation of the heat island effect in urban areas;
- (5) tree plantings and ground covers such as low growing dense perennial turfgrass sod in urban areas and communities can aid in reducing carbon dioxide emissions, mitigating the heat island effect, and reducing energy consumption, thus contributing to efforts to reduce global warming trends;
- (6) efforts to encourage tree plantings and protect existing open spaces in urban areas and communities can contribute to the social well-being and promote a sense of community in these areas; and
- (7) strengthened research, education, technical assistance, and public information and participation in tree planting and maintenance programs for trees and complementary ground covers for urban and community forests are needed to provide for the protection and expansion of tree cover and open space in urban areas and communities.

(b) Purposes.—The purposes of this section are to—

- (1) improve understanding of the benefits of preserving existing tree cover in urban areas and communities;
- (2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;

- (3) provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying appropriate tree species and sites for expanding forest cover;
- (4) provide assistance through competitive matching grants awarded to local units of government, approved organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code of 1986, or other local community tree volunteer groups, for urban and community forestry projects;
- (5) implement a tree planting program to complement urban and community tree maintenance and open space programs and to reduce carbon dioxide emissions, conserve energy, and improve air quality in addition to providing other environmental benefits;
- (6) promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;
- (7) enhance the technical skills and understanding of sound tree maintenance and arboricultural practices including practices involving the cultivation of trees, shrubs and complementary ground covers, of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and
- (8) expand existing research and educational efforts intended to improve understanding of—
  - (A) tree growth and maintenance, tree physiology and morphology, species adaptations, and forest ecology,
  - (B) the value of integrating trees and ground covers,
  - (C) the economic, environmental, social, and psychological benefits of trees and forest cover in urban and community environments, and
  - (D) the role of urban trees in conserving energy and mitigating the urban heat island.
- (c) General Authority.—The Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the purpose of encouraging States to provide information and technical assistance to units of local government and others that will encourage cooperative efforts to plan urban forestry programs and to plant, protect, and maintain, and utilize wood from, trees in open spaces, greenbelts, roadside screens, parks, woodlands, curb areas, and residential developments in urban areas. In providing such assistance, the Secretary is authorized to cooperate with interested members of the public, including nonprofit private organizations. The Secretary is also authorized to cooperate directly with units of local government and others in implementing this section whenever the Secretary and the affected State forester or equivalent State official agree that direct cooperation would better achieve the purposes of this section.

- (d) Program of Education and Technical Assistance.—The Secretary, in cooperation with State foresters and State extension directors or equivalent State officials and interested members of the public, including nonprofit private organizations, shall implement a program of education and technical assistance for urban and community forest resources. The program shall be designed to—
- (1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, identifying opportunities for the establishment of plantings for the purposes of conserving energy, and determining the status of related resources (including fish and wildlife habitat, water resources, and trails);
  - (2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;
  - (3) improve education and technical support in—
    - (A) selecting tree species appropriate for planting in urban and community environments and for promotion of energy conservation;
    - (B) providing for proper tree planting, maintenance, and protection in urban areas and communities;
    - (C) protecting individual trees and preserving existing open spaces with or without tree cover; and
    - (D) identifying opportunities for expanding tree cover in urban areas and communities;
  - (4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and
  - (5) increase public understanding of the energy conservation, economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.
- (e) Procurement of Plant Materials.—The Secretary, in cooperation with State foresters or equivalent State officials, shall assist in identifying sources of plant materials and may procure or otherwise obtain such plant materials from public or private sources and may make such plant materials available to urban areas and communities for the purpose of reforesting open spaces, replacing dead and dying urban trees, promoting energy conservation, and providing other environmental benefits through expanding tree cover in urban areas and communities.



(f) Challenge Cost-Share Program.—

- (1) In General.—The Secretary shall establish an urban and community forestry challenge cost-share program. Funds or other support shall be provided under such program to eligible communities and organizations, on a competitive basis, for urban and community forestry projects. The Secretary shall annually make awards under the program in accordance with criteria developed in consultation with, and after consideration of recommendations received from, the National Urban and Community Forestry Advisory Council established under subsection (g). Each State forester or equivalent State official may make recommendations to the Secretary for awards under the program for project proposals in their State which meet such criteria. Awards shall be consistent with the cost-share requirements of this section.
- (2) Cost-Sharing.—The Federal share of support for a project provided under this subsection may not exceed 50 percent of the support for that project and shall be provided on a matching basis. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions.

(g) Forestry Advisory Council.—

- (1) Establishment and Purpose.—The Secretary shall establish a National Urban and Community Forestry Advisory Council (hereafter in this section referred to as the “Council”) for the purpose of—
  - (A) developing a national urban and community forestry action plan;
  - (B) evaluating the implementation of that plan; and
  - (C) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost-share program under subsection (f).
- (2) Composition and Operation.—
  - (A) Composition.—The Council shall be composed of 15 members appointed by the Secretary, as follows:
    - (i) 2 members representing national nonprofit forestry and conservation citizen organizations,
    - (ii) 3 members, 1 each representing State, county, and city and town governments,
    - (iii) 1 member representing the forest products, nursery, or related industries,
    - (iv) 1 member representing urban forestry, landscape, or design consultants,
    - (v) 2 members representing academic institutions with an expertise in urban and community forestry activities,
    - (vi) 1 member representing State forestry agencies or equivalent State agencies,
    - (vii) 1 member representing a professional renewable natural resource or arboricultural society,
    - (viii) 1 member from the National Institute of Food and Agriculture,
    - (ix) 1 member from the Forest Service, and

- (x) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.
- (B) Vacancy.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.
- (C) Chairperson.—The Secretary shall select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, who shall serve as the chairperson of the Council.
- (D) Terms.—
  - (i) In General.—Except as provided in clauses (ii) and (iii) of this paragraph, members shall be appointed for terms of 3 years, and no member may serve more than 2 consecutive terms on the Council.
  - (ii) Staggered Terms.—Of the members first appointed—
    - (I) 5, including the chairperson and 2 governmental employees, shall be appointed for a term of 3 years,
    - (II) 5, including 2 governmental employees, shall be appointed for a term of 2 years, and
    - (III) 5, including 2 governmental employees, shall be appointed for a term of 1 year, as designated by the Secretary at the time of appointment.
  - (iii) Continuation.—Any member appointed to fill a vacancy occurring before the expiration of the term of the member's predecessor shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.
- (E) Compensation.—
  - (i) In General.—Except as provided in clause (ii), members of the Council shall serve without pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Council.
  - (ii) Federal Officers and Employees.—Members of the Council who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.
  - (iii) Financial and Administrative Support.—The Secretary shall provide financial and administrative support for the Council.
- (3) Urban and Community Forestry Action Plan.—Within 1 year after the date of enactment of this subsection and every 10 years thereafter, the Council shall prepare a National Urban and Community Forestry Action Plan. The plan shall include (but not be limited to) the following:
  - (A) An assessment of the current status of urban forest resources in the United States.

- (B) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Department of Agriculture, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations, and interested others.
  - (C) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.
  - (D) A review of urban and community forestry research, including—
    - (i) a review of all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;
    - (ii) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and
    - (iii) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.
  - (E) Proposed criteria for evaluating proposed projects under the urban and community forestry challenge cost share program under subsection (f), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.
  - (F) An estimate of the resources needed to implement the National Urban and Community Forestry Action Plan for the succeeding 10 fiscal years.
- (4) Amendment of the Plan.—The plan may be amended by a majority of the Council members. Such amendments shall be incorporated into the Council's annual review of the plan submitted to the Secretary pursuant to paragraph (5) of this subsection.
- (5) Review of the Plan.—The Council shall submit the plan to the Secretary and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate upon its completion. Beginning no later than one year after the plan is submitted and annually thereafter, the Council shall submit a review of the plan to the Secretary no later than December 31. The review shall consist of—
- (A) the Council's assessment of prior year accomplishments in research, education, technical assistance, and related activities in urban and community forestry;
  - (B) the Council's recommendations for research, education, technical assistance, and related activities in the succeeding year; and

- (C) the Council's recommendations for the urban and community forestry challenge cost share projects to be funded during the succeeding year. The review submitted to the Secretary shall be incorporated into the annual report required under section 3(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(d)).
- (6) Detail of Personnel.—Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this Act.
- (h) Definitions.—For the purposes of this section—
  - (1) the term “Council” means the National Urban and Community Forestry Advisory Council established under subsection (g);
  - (2) the term “plan” means the National Urban and Community Forestry Action Plan developed under subsection (g)(3); and
  - (3) the term “urban and community area” includes cities, their suburbs, and towns.
- (i) Authorization of Appropriations.—There are hereby authorized to be appropriated \$30,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary for each fiscal year thereafter, for the implementation of this section.

## **Section 10. [16 U.S.C. 2106] Rural Fire Prevention and Control<sup>4</sup>**

- (a) Congress finds that—
  - (1) significant accomplishments have been made by the Secretary and cooperating States in the prevention and control of fires on forest lands and on nonforested watersheds for more than fifty years;
  - (2) progress is being made by the Secretary and cooperating States and rural communities in the protection of human lives, agricultural crops and livestock, property and other improvements, and natural resources from fires in rural areas;
  - (3) notwithstanding the accomplishments and progress that have been made, fire prevention and control on rural lands and in rural communities are of continuing high priority to protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;
  - (4) the effective cooperative relationships between the Secretary and the States regarding fire prevention and control on rural lands and in rural communities should be retained and improved;
  - (5) efforts in fire prevention and control in rural areas should be coordinated among Federal, State, and local agencies; and

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<sup>4</sup> The 12th paragraph under the heading “ADMINISTRATIVE PROVISIONS, FOREST SERVICE” in title II of the Department of the Interior and Related Agencies Appropriations Act, 1999 (as contained in section 101(e) of division A of Public Law 105–277 (112 Stat. 2681–274; 16 U.S.C. 2106b)), provides as follows: “Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall hereafter be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 note, 2101–2110, 1606, and 2111.”

- (6) in addition to providing assistance to State and local rural fire prevention and control programs, the Secretary should provide prompt and adequate assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capability of the affected State or rural area.
- (b) Notwithstanding the Federal Fire Prevention and Control Act of 1974, the Secretary is authorized, under whatever conditions the Secretary may prescribe to—
  - (1) cooperate with State foresters or equivalent State officials in developing systems and methods for the prevention, control, suppression, and prescribed use of fires on rural lands and in rural communities that will protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;
  - (2) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, for the prevention, control, suppression, and prescribed use of fires on non-Federal forest lands and other non-Federal lands;
  - (3) provide financial, technical, and related assistance to State foresters or equivalent State officials in cooperative efforts to organize, train, and equip local firefighting forces, including those of Indian tribes or other native groups, to prevent, control, and suppress fires threatening human lives, crops, livestock, farmsteads or other improvements, pastures, orchards, wildlife, rangeland, woodland, and other resources in rural areas. As used herein, the term “rural areas” shall have the meaning set out in the first clause of section 306(a)(7) of the Consolidated Farm and Rural Development Act; and
  - (4) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, including rural volunteer fire departments, to conduct preparedness and mobilization activities, including training, equipping, and otherwise enabling State and local firefighting agencies to respond to requests for fire suppression assistance.
- (c) Encouragement of use of Excess Personal Property by State and Local Fire Forces Receiving Assistance: Cooperation and Assistance of Administrator of General Services.—The Secretary, with the cooperation and assistance of the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of the Federal Property and Administrative Services Act of 1949) by State and local fire forces receiving assistance under this section.
- (d) Coordination of Assistance with Assistance of Secretary of Commerce under Fire Prevention and Control Provisions.—To promote maximum effectiveness and economy, the Secretary shall seek to coordinate the assistance the Secretary provides under this section with the assistance by the Secretary of Commerce under the Federal Fire Prevention and Control Act of 1974.
- (e) Authorization of Appropriations for Implementation of Provisions.—
  - (1) There are hereby authorized to be appropriated annually such sums as may be needed to implement paragraphs (1), (2) and (3) of subsection (b) of this section.

(2)

- (A) There are hereby authorized to be appropriated annually \$70,000,000 to carry out subsection (b)(4). Of the total amount appropriated to carry out subsection (b)(4)—
  - (i) one-half shall be available only for State foresters or equivalent State officials, and through them to other agencies and individuals, of which not less than \$100,000 shall be made available to each State; and
  - (ii) one-half shall be available only for rural volunteer fire departments.
- (B) The Federal share of the cost of any activity carried out with funds made available pursuant to this paragraph may not exceed 50 percent of the cost of that activity. The non-Federal share for such activity may be in the form of cash, services, or in-kind contributions.
- (f) There shall be established in the Treasury a special rural fire disaster fund that shall be immediately available to and used by the Secretary to supplement any other money available to carry out this section with respect to rural fire emergencies, as determined by the Secretary. The Secretary shall determine that State and local resources are fully used or will be fully used before expending money in the disaster fund to assist a State in which one or more rural fire emergencies exist. There are hereby authorized to be appropriated such sums as may be needed to establish and replenish the disaster fund established by this subsection.
- (g) As used in this section—
  - (1) the term “rural volunteer fire department” means any organized, not for profit, fire protection organization that provides service primarily to a community or city with a population of 10,000 or less or to a rural area, as defined by the Secretary, whose firefighting personnel is 80 percent or more volunteer, and that is recognized as a fire department by the laws of the State; and
  - (2) the term “mobilization” means any activity in which one firefighting organization assists another that has requested assistance.

## **Section 10A. [16 U.S.C. 2106c] Enhanced Community Fire Protection**

- (a) Cooperative Management Related to Wildfire Threats.—The Secretary may cooperate with State foresters and equivalent State officials in the management of lands in the United States for the following purposes:
  - (1) Aid in wildfire prevention and control.
  - (2) Protect communities from wildfire threats.
  - (3) Enhance the growth and maintenance of trees and forests that promote overall forest health.
  - (4) Ensure the continued production of all forest resources, including timber, outdoor recreation opportunities, wildlife habitat, and clean water, through conservation of forest cover on watersheds, shelterbelts, and windbreaks.

- (b) Community and Private Land Fire Assistance Program.—
- (1) Establishment; Purpose.—The Secretary shall establish a Community and Private Land Fire Assistance program (in this subsection referred to as the “Program”)—
- (A) to focus the Federal role in promoting optimal firefighting efficiency at the Federal, State, and local levels;
  - (B) to augment Federal projects that establish landscape level protection from wildfires;
  - (C) to expand outreach and education programs to homeowners and communities about fire prevention; and
  - (D) to establish space around homes and property of private landowners that is defensible against wildfires.
- (2) Administration and Implementation.—The Program shall be administered by the Forest Service and implemented through State foresters or equivalent State officials.
- (3) Components.—In coordination with existing authorities under this Act, the Secretary, in consultation with the State forester or equivalent State official, may undertake on non-Federal lands—
- (A) fuel hazard mitigation and prevention;
  - (B) invasive species management;
  - (C) multi-resource wildfire planning;
  - (D) community protection planning;
  - (E) community and landowner education enterprises, including the program known as FIREWISE;
  - (F) market development and expansion;
  - (G) improved wood utilization; and
  - (H) special restoration projects.
- (4) Consent Required.—Program activities undertaken by the Secretary on non-Federal lands shall be undertaken only with the consent of the owner of the lands.
- (5) Considerations.—The Secretary shall use persons in the local community wherever possible to carry out projects under the Program.
- (c) Consultation.—In carrying out this section, the Secretary shall consult with the Administrator of the United States Fire Administration, the Director of the National Institute of Standards and Technology, and the heads of other Federal agencies, as necessary.
- (d) Authorization of Appropriations.—There are hereby authorized to be appropriated to the Secretary to carry out this section—
- (1) \$35,000,000 for each of fiscal years 2002 through 2007; and
  - (2) such sums as are necessary for fiscal years thereafter.

## **Section 11. [16 U.S.C. 2107] Management and Planning Assistance and Technology Related Assistance to States**

- (a) Development of State Organization for Protection and Management of non-Federal Forest Lands, Scope of Assistance; Request by Officials.—To aid in achieving maximum effectiveness in the programs and activities conducted under this Act, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the development of stronger and more efficient State organizations that will enable them to fulfill their responsibilities for the protection and management of non-Federal forest lands. Assistance under this subsection may include, but will not be limited to, assistance in matters related to organization management, program planning and management, budget and fiscal accounting services, personnel training and management, information services, and recordkeeping. Assistance under this subsection may be extended only upon request by State foresters or equivalent State officials.
- (b) Assembly, Analysis, Display, and Report of State Forest Resources Data, Resources Planning, etc.; Scope of Assistance, Other Statutory Provisions Unaffected.—To ensure that data regarding forest lands are available for and effectively presented in State and Federal natural resources planning, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials in the assembly, analysis, display, and reporting of State forest resources data, in the training of State forest resources planners, and in participating in natural resources planning at the State and Federal levels. The Secretary shall restrict assistance under this subsection to the implementation of the forestry aspects of State and Federal natural resources planning conducted under other laws. This subsection shall not be construed, in any way whatsoever, as extending, limiting, amending, repealing, or otherwise affecting any other law or authority.
- (c) Technology Implementation Program; Scope of Program; Availability of Funds; Use of Forest Resources Planning Committee.—To ensure that new technology is introduced, new information is integrated into existing technology, and forest resources research findings are promptly made available to State forestry personnel, private forest landowners and managers, vendors, forest operators, wood processors, public agencies, and individuals, the Secretary is authorized to carry out a program of technology implementation.
  - (1) In implementing this subsection, the Secretary is authorized to work through State foresters or equivalent State officials, and, if the State forester or equivalent State official is unable to deliver these services, the Secretary is authorized to act through appropriate United States Agriculture agencies, subdivisions of States, agencies, institutions, organizations, or individuals to—
    - (A) strengthen technical assistance and service programs of cooperators participating in programs under this Act by applying research results and conducting pilot projects and field tests of management and utilization practices, equipment, and technologies, related to programs and activities authorized under this Act;
    - (B) study the effects of tax laws, methods, and practices on forest management.



- (C) develop and maintain technical information systems in support of programs and activities authorized under this Act;
  - (D) test, evaluate, and seek registration of chemicals for use in implementing the programs and activities authorized under this Act;
  - (E) conduct other activities, including training of State forestry personnel whom the Secretary deems necessary to ensure that the programs and activities authorized under this Act are responsive to special problems, unique situations, and changing conditions.
- (2) The Secretary may make funds available to cooperators under this Act without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529), which prohibits advances of public money.
  - (3) The Secretary shall use forest resources planning committees at National and State levels in implementing this subsection.
- (d) Authorization of Appropriations.—There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

## **Section 12. [16 U.S.C. 2108]. Consolidated Payments**

- (a) Request by State; Excluded Funds.—To provide flexibility in funding activities authorized under this Act, the Secretary may, upon the request of any State, consolidate the annual financial assistance payments to that State under this Act, in lieu of functional cost sharing mechanisms, formulas, or agreements. However, consolidated payments shall not include money appropriated under section 4 of this Act or money from any special Treasury fund established under this Act.
- (b) State Forest Resources Program as Basis.—Consolidation of payments made under this section shall be based upon State forest resources programs developed by State foresters or equivalent State officials and reviewed by the Secretary.
- (c) Amount of Payments.—Consolidated payments to any State during any fiscal year shall not exceed the total amount of non-Federal funds expended within the State during that year to implement its State forest resources program. However, the Secretary may make payments that exceed the non-Federal amount expended for selected activities under the program, if the total Federal expenditure during any fiscal year does not exceed the total non-Federal expenditure during that year under the State forest resources program.
- (d) Certification Requirement by State Forester or Equivalent State Official for Federal Payment.—The Secretary may make consolidated payments on the certificate of the State forester or equivalent State official that the conditions for Federal payment have been met.
- (e) Administration of Consolidated Payments Program not to Adversely Affect, etc., Other Programs.—The Secretary shall administer this section to ensure that the use of consolidated payments does not adversely affect or eliminate any program authorized under this Act.

- (f) Total Annual Amount of Financial Assistance to Participating State ; Financial Assistance for Special Projects not to be Included in Determining Base Amount.—Subject to applicable appropriation Acts, the total annual amount of financial assistance to any participating State after the enactment of this Act shall not be less than the base amount of financial assistance provided to that State under all the provisions of law specified in section 16 of this Act during the fiscal year in which this Act is enacted. However, financial assistance for special projects of two years or less duration shall not be included in determining the base amount for any participating State.

### **Section 13. [16 U.S.C. 2109]. General Provisions**

- (a) Cooperative and Coordinating Requirements for Implementation of Programs, etc.— In implementing this Act, the Secretary shall, to the maximum extent practicable—
- (1) work through, cooperate with, and assist State foresters or equivalent State officials;
  - (2) encourage cooperation and coordination between State foresters or equivalent State officials and other State agencies that manage renewable natural resources;
  - (3) use and encourage cooperators under this Act to use, private agencies, consultants, organizations, firms, and individuals to furnish necessary materials and services; and
  - (4) promote effectiveness and economy by coordinating the direct actions and assistance authorized under this Act with related programs the Secretary administers, and with cooperative programs of other agencies.
- (b) Availability of Appropriations.—Money appropriated under this Act shall remain available until expended.
- (c) Consultation Requirements for Implementation for Programs, etc.— Requirements for the development of State forest resources programs and State participation in management assistance, planning assistance, and technology implementation, the apportionment of funds among States participating under this Act, the administrative expenses in connection with activities and programs under this Act, and the amounts to be expended by the Secretary to assist non-State cooperators under this Act, shall be determined by the Secretary in consultation with a committee of not less than five State foresters or equivalent State officials selected by a majority of the State foresters or equivalent State officials from States participating in programs under this Act. However, the Secretary need not consult with such committee regarding funds to be expended under emergency conditions that the Secretary may determine.

(d) Definitions.—For the purposes of this Act—

- (1) The terms “United States” and “State” shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau,<sup>5</sup> and the territories and possessions of the United States;
  - (2) The term “forest resources” shall include esthetics, fish and wildlife, forage, outdoor recreation opportunities, timber, and water; and
  - (3) The term “urban forestry” means the planning, establishment, protection, and management of trees and associated plants, individually, in small groups, or under forest conditions within cities, their suburbs, and towns.
- (e) Rules and Regulations.—The Secretary may prescribe rules and regulations, as the Secretary deems appropriate, to implement the provisions of this Act.
- (f) Granting, etc., Authorities.—The Secretary is authorized to make grants, agreements, contracts, and other arrangements the Secretary deems necessary to implement this Act.
- (g) Construction of Statutory Provisions.—This Act shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary, except as specifically cited in section 16 of this Act.
- (h) Additional Assistance.<sup>6</sup>—In addition to the authority provided elsewhere in this Act, the Secretary may provide assistance to other countries with respect to the activities described in paragraphs (1) through (10) of section 3(b), paragraphs (1) through (5) of section 7(b), and paragraphs (1) through (3) of section 9(b). For the purposes of providing assistance to other countries under this subsection, the term “non-Federal forest land” shall mean any forest land and related renewable natural resources in such countries. In providing the assistance authorized under this subsection, the Secretary shall coordinate with other Federal officials, departments, agencies, or international organizations, as the President may direct. The references to “State foresters or equivalent State officials” in this Act shall not apply to the assistance provided by the Secretary to other countries under this subsection.

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<sup>5</sup> Section 8004 of Public Law 110–246 amended the “Cooperative Forestry Act of 1978”. The amendment instruction should have referred to the “Cooperative Forestry Assistance Act of 1978” and was executed to reflect the probable intent of Congress.

<sup>6</sup> Subsection (h) was added by section 607(b)(3) of Public Law 101–513 (104 Stat. 2072, approved November 5, 1990). The amendment was drafted in anticipation of amendments to the Cooperative Forestry Assistance Act of 1978 to be made by the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3525). Two problems arose. The anticipated amendments were changed somewhat so that the amendatory language in Public Law 101–513 refers to the wrong section and Public Law 101–624 was enacted on November 28, 1990, after the date of the enactment of Public Law 101–513. Consequently, subsection (h) does not appear in the law. The cross references in subsection (h) to other provisions of the Cooperative Forestry Assistance Act of 1978 are also wrong because of the redesignations actually made by Public Law 101–624. Paragraphs (1) through (10) of section 3(b) do not exist as section 3(b) now has only six paragraphs. Paragraphs (1) through (5) of section 7(b) probably refer to paragraphs (1) through (5) of section 8(b), or possibly to all seven paragraphs of section 8(b). Paragraphs (1) through (3) of section 9(b) either refer to section 9(b), which actually has eight paragraphs, or to section 10(b), which has four paragraphs. The former is the choice of the Law Revision Counsel while the latter is the choice of the Legislative Counsel.

### **Section 13A. [16 U.S.C. 2109a] State and Private Forest Landscape-Scale Restoration Program**

- (a) Purpose.—The purpose of this section is to encourage collaborative, science-based restoration of priority forest landscapes.
- (b) Definitions.—In this section:
  - (1) Indian Tribe.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).
  - (2) Nonindustrial Private Forest Land.—The term “nonindustrial private forest land” means land that—
    - (A) is rural, as determined by the Secretary;
    - (B) has existing tree cover or is suitable for growing trees; and
    - (C) is owned by any private individual, group, association, corporation, Indian tribe, or other private legal entity.
  - (3) State Forest Land.—The term “State forest land” means land that—
    - (A) is rural, as determined by the Secretary; and
    - (B) is under State or local governmental ownership and considered to be non-Federal forest land.
- (c) Establishment.—The Secretary, in consultation with State foresters or appropriate State agencies, shall establish a competitive grant program to provide financial and technical assistance to encourage collaborative, science-based restoration of priority forest landscapes.
- (d) Eligibility.—To be eligible to receive a grant under this section, an applicant shall submit to the Secretary, through the State forester or appropriate State agency, a State and private forest landscape-scale restoration proposal based on a restoration strategy that—
  - (1) is complete or substantially complete;
  - (2) is for a multiyear period;
  - (3) covers nonindustrial private forest land or State forest land;
  - (4) is accessible by wood-processing infrastructure; and
  - (5) is based on the best available science.
- (e) Plan Criteria.—A State and private forest landscape-scale restoration proposal submitted under this section shall include plans—
  - (1) to reduce the risk of uncharacteristic wildfires;
  - (2) to improve fish and wildlife habitats, including the habitats of threatened and endangered species;
  - (3) to maintain or improve water quality and watershed function;
  - (4) to mitigate invasive species, insect infestation, and disease;
  - (5) to improve important forest ecosystems;
  - (6) to measure ecological and economic benefits, including air quality and soil quality and productivity; and
  - (7) to take other relevant actions, as determined by the Secretary.

- (f) **Priorities.**—In making grants under this section, the Secretary shall give priority to plans that—
  - (1) further a statewide forest assessment and resource strategy;
  - (2) promote cross boundary landscape collaboration; and
  - (3) leverage public and private resources.
- (g) **Collaboration and Consultation.**—The Chief of the Forest Service, the Chief of the Natural Resources Conservation Service, and relevant stakeholders shall collaborate and consult on an ongoing basis regarding—
  - (1) administration of the program established under this section; and
  - (2) identification of other applicable resources for landscape-scale restoration.
- (h) **Matching Funds Required.**—As a condition of receiving a grant under this section, the Secretary shall require the recipient of the grant to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount of Federal funds.
- (i) **Coordination and Proximity Encouraged.**—In making grants under this section, the Secretary may consider coordination with and proximity to other landscape-scale projects on other land under the jurisdiction of the Secretary, the Secretary of the Interior, or a Governor of a State, including under—
  - (1) the Collaborative Forest Landscape Restoration Program established under section 4003 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303);
  - (2) landscape areas designated for insect and disease treatments under section 602 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591a);
  - (3) good neighbor authority under section 19;
  - (4) stewardship end result contracting projects authorized under section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c);
  - (5) appropriate State-level programs; and
  - (6) other relevant programs, as determined by the Secretary.
- (j) **Regulations.**—The Secretary shall promulgate such regulations as the Secretary determines necessary to carry out this section.
- (k) **Report.**—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on—
  - (1) the status of development, execution, and administration of selected projects;
  - (2) the accounting of program funding expenditures; and
  - (3) specific accomplishments that have resulted from landscape-scale projects.
- (l) **Fund.**—
  - (1) **In General.**—There is established in the Treasury a fund, to be known as the “State and Private Forest Landscape-Scale Restoration Fund” (referred to in this subsection as the “Fund”), to be used by the Secretary to make grants under this section.

- (2) Contents.—The Fund shall consist of such amounts as are appropriated to the Fund under paragraph (3).
- (3) Authorization of Appropriations.—There is authorized to be appropriated to the Fund \$20,000,000 for each fiscal year beginning with the first full fiscal year after the date of enactment of this subsection through fiscal year 2023, to remain available until expended.

**[Section 13B. Omitted]**

**Section 14. [16 U.S.C. 2110] Statement of Limitation**

This Act shall not authorize the Federal Government to regulate the use of private land or to deprive owners of land of their rights to property or to income from the sale of property, unless such property rights are voluntarily conveyed or limited by contract or other agreement. This Act does not diminish in any way the rights and responsibilities of the States and political subdivisions of States.

**[Reports]**

**[Section 15. Omitted—Amendments]**

**Section 16. [16 U.S.C. 2111]. Repeal of Other Laws; Existing Contracts and Agreements; Appropriations**

- (a) Repeal Statutory Authorities.—The following laws, and portions of laws, are hereby repealed:
  - (1) sections 1, 2, 3, and 4 of the Act of June 7, 1924, known as the Clarke-McNary Act (43 Stat. 653–654, as amended; 16 U.S.C. 564, 565, 566, 567);
  - (2) the Act of April 26, 1940, known as the White Pine Blister Rust Protection Act (54 Stat. 168; 16 U.S.C. 594a);
  - (3) the Forest Pest Control Act;
  - (4) the Cooperative Forest Management Act;
  - (5) section 401 of the Agricultural Act of 1956;
  - (6) title IV of the Rural Development Act of 1972; and
  - (7) section 1009 and the proviso to section 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973.
- (b) Force and Effect of Contracts and Cooperative and Other Agreements Under Cooperative Forestry Programs Executed Under Authority of Repeal Status.—Contracts and cooperative and other agreements under cooperative forestry programs executed under authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall remain in effect until revoked or amended by their own terms or under other provisions of law.
- (c) Availability of Funds Appropriated Under Authority of Repeal Statutes for Cooperative Forestry Assistance Programs.—Funds appropriated under the authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall be available for expenditure for the programs authorized under this Act.

## **Section 17. [16 U.S.C. 2101 Note]. Effective Date**

The provisions of this Act shall become effective October 1, 1978.

## **[Section 18. Omitted]**

[Section 18 was repealed by section 8003 of Public Law 113–79.]

## **Section 19. [16 U.S.C. 2113] Federal, State, and Local Coordination and Cooperation**

(a) Forest Resource Coordinating Committee.—

- (1) Establishment.—The Secretary shall establish a committee, to be known as the “Forest Resource Coordinating Committee” (in this section referred to as the “Coordinating Committee”), to coordinate nonindustrial private forestry activities within the Department of Agriculture and with the private sector.
- (2) Composition.—The Coordinating Committee shall be composed of the following:
  - (A) The Chief of the Forest Service.
  - (B) The Chief of the Natural Resources Conservation Service.
  - (C) The Director of the Farm Service Agency.
  - (D) The Director of the National Institute of Food and Agriculture.
  - (E) Non-Federal representatives appointed by the Secretary to 3-year terms, although initial appointees shall have staggered terms, including the following persons:
    - (i) At least three State foresters or equivalent State officials from geographically diverse regions of the United States.
    - (ii) A representative of a State fish and wildlife agency.
    - (iii) An owner of nonindustrial private forest land.
    - (iv) A forest industry representative.
    - (v) A conservation organization representative.
    - (vi) A land-grant university or college representative.
    - (vii) A private forestry consultant.
    - (viii) A representative from a State Technical Committee established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861).
  - (F) Such other persons as determined by the Secretary to be appropriate.
- (3) Chairperson.—The Chief of the Forest Service shall serve as chairperson of the Coordinating Committee.
- (4) Duties.—The Coordinating Committee shall—
  - (A) provide direction and coordination of actions within the Department of Agriculture, and coordination with State agencies and the private sector, to effectively address the national priorities specified in section 2(c), with specific focus owners of nonindustrial private forest land;

- (B) clarify individual agency responsibilities of each agency represented on the Coordinating Committee concerning the national priorities specified in section 2(c), with specific focus on nonindustrial private forest land;
  - (C) provide advice on the allocation of funds, including the competitive funds set-aside by section 13A; and
  - (D) assist the Secretary in developing and reviewing the report required by section 2(d).
- (5) Meeting.—The Coordinating Committee shall meet annually to discuss progress in addressing the national priorities specified in section 2(c) and issues regarding nonindustrial private forest land.
- (6) Compensation.—
- (A) Federal Members.—Members of the Coordinating Committee who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Coordinating Committee.
  - (B) Non-Federal Members.—Non-federal members of the Coordinating Committee shall serve without pay but may be reimbursed for reasonable costs incurred while performing their duties on behalf of the Coordinating Committee.
- (b) State Coordinating Committees.—
- (1) Establishment.—
- (A) In General.—The Secretary, in consultation with the State forester or equivalent State official of each State, shall establish a State Forest Stewardship Coordinating Committee (hereafter referred to in this section as the “State Coordinating Committee”) for each such State.
  - (B) Composition.—The State Coordinating Committee shall be chaired and administered by the State forester, or equivalent State official, or the designee thereof, and shall be composed, to the extent practicable, of—
    - (i) representatives from the Forest Service, Soil Conservation Service, Agricultural Stabilization and Conservation Service, and National Institute of Food and Agriculture;
    - (ii) representatives, to be appointed by the State forester or equivalent State official, representative of—
      - (I) local government;
      - (II) consulting foresters;
      - (III) environmental organizations;
      - (IV) forest products industry;
      - (V) forest landowners;
      - (VI) land-trust organizations, if applicable in the State;
      - (VII) conservation organizations;
      - (VIII) the State fish and wildlife agency; and
      - (IX) the State Technical Committee.
    - (iii) any other individuals determined appropriate by the Secretary.



- (C) Terms.—The members of the State Coordinating Committee appointed under subparagraph (B)(ii) shall serve 3-year terms, with the initial members serving staggered terms as determined by the State forester or equivalent State official and may be reappointed for consecutive terms.
  - (D) Existing Committees.—Existing State forestry committees may be used to complement, formulate, or replace the State Coordinating Committees to avoid duplication of efforts if such existing committees are made up of membership that is similar to that described in subparagraph (B)(ii), and if such existing committees include landowners and the general public in their memberships.
- (2) Duties.—A State Coordinating Committee shall—
- (A) consult with other Department of Agriculture and State committees that address State and private forestry issues;
  - (B) make recommendations to the Secretary concerning the assignment of priorities and the coordination of responsibilities for the implementation of this Act by the various Federal and State forest management agencies that take into consideration the mandates of each such agency;
  - (C) make recommendations to the State forester or equivalent State official concerning the development of the State-wide assessment and strategy regarding forest resource conditions under section 2A; and
  - (D) make recommendations to the Secretary concerning those forest lands that should be given priority for inclusion in the Forest Legacy Program established pursuant to section 7.
- (3) Termination.—The State Coordinating Committees shall not terminate.
- (4) Rule of Construction.—Nothing in this section shall be construed to compel action by any State official.

## **Section 20. [16 U.S.C. 2114] Administration**

- (a) In General.—The Secretary shall administer this Act in accordance with regulations that the Secretary shall develop.
- (b) Guidelines.—The regulations promulgated under this Act shall include guidelines for the administration of this Act at the Federal and State levels and shall identify the measures and activities that are eligible for cost sharing under this Act.
- (c) Existing Mechanisms.—Existing mechanisms shall be used to the extent possible to make payments and deliver services to the landowner under this Act.
- (d) Land Grant Universities.—The Secretary, in consultation with State foresters or equivalent State officials, may provide assistance directly to other State and local natural resource management agencies and land grant universities in implementing this Act in cases in which the State foresters or equivalent State officials are not able to make fund transfers to other State and local agencies.

## **Part 2. Forest Service Economic Action Program Authorities**

**Note:** The “Administrative Provisions” section of P.L. 107-63, 2001 carries the following explicit direction authorizing Forest Service employees to provide technical assistance to communities: “Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purpose.”

**Rural Revitalization through Forestry, National Forest Dependent Communities, Public Law 101-624. “Food, Agriculture, Conservation, and Trade Act of 1990,” November 28, 1990. Title XXIII, Chapter 2. National Forest Dependent Rural Communities, “National Forest-Dependent Rural Communities Economic Diversification Act of 1990,” Sec. 2371-2379, 7 U.S.C. 6611-6617.**

### **Chapter 1—Forestry Rural Revitalization**

#### **Section 2371.7<sup>7</sup> Forestry Rural Revitalization —**

- (a) Establishment of Economic Development and Global Marketing Program.—The Secretary of Agriculture, acting through the Extension Service and the Cooperative Extension System, and in consultation with the Forest Service, shall establish and implement educational programs and provide technical assistance to assist businesses, industries, and policymakers to create jobs, raise incomes, and increase public revenues in manners consistent with environmental concerns.
- (b) Activities.—Each program established under subsection (a) shall —
  - (1) transfer technologies to natural resource-based industries in the United States to make such industries more efficient, productive, and competitive;
  - (2) assist businesses to identify global marketing opportunities, conduct business on an international basis, and market themselves more effectively; and
  - (3) train local leaders in strategic community economic development.
- (c) Types of Programs.—The Secretary of Agriculture shall establish specific programs under subsection (a) to—
  - (1) deliver educational services focused on community economic analysis, economic diversification, economic impact analysis, retention and expansion of existing commodity and non-commodity industries, amenity resource and tourism development, and entrepreneurship focusing on forest lands and rural communities;
  - (2) use Cooperative Extension System databases and analytical tools to help communities diversify their economic bases, add value locally to raw forest product materials, and retain revenues by helping to develop local businesses and industries to supply forest products locally; and

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<sup>7</sup> Sec. 202 of Title II-Biomass of the Healthy Forest Restoration Act of 2003 (P.L. 108-148), 7 U.S.C. 8101 amended Section 2371 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 6601) by adding Sec. (d) Rural Revitalization Technologies.

- (3) use the full resources of the Cooperative Extension Service, including land-grant universities and county offices, to promote economic development that is sustainable and environmentally sound.
- (d) Rural Revitalization Technologies.—
  - (1) In General.—The Secretary of Agriculture, acting through the Chief of the Forest Service, in consultation with the State and Private Forestry Technology Marketing Unit at the Forest Products Laboratory, and in collaboration with eligible institutions, may carry out a program—
    - (A) to accelerate adoption of technologies using biomass and small-diameter materials;
    - (B) to create community-based enterprises through marketing activities and demonstration projects; and
    - (C) to establish small-scale business enterprises to make use of biomass and small-diameter materials.
  - (2) Authorization of Appropriations.—There is authorized to be appropriated to carry out this subsection \$5,000,000 for each of fiscal years 2004 through 2018.

## **Chapter 2—National Forest-Dependent Rural Communities**

### **Section 2372. Short Title**

This chapter may be cited as the ‘National Forest-Dependent Rural Communities Economic Diversification Act of 1990.’

### **Section 2373. Findings and Purposes**

- (a) Findings.—The Congress finds that—
  - (1) the economic well-being of rural America is vital to our national growth and prosperity;
  - (2) the economic well-being of many rural communities depends upon the goods and services that are derived from National Forest System land;
  - (3) the economies of many of these communities suffer from a lack of industrial and business diversity;
  - (4) this lack of diversity is particularly serious in communities whose economies are predominantly dependent on timber and recreation resources and where management decisions made on National Forest System land by Federal and private organizations may disrupt the supply of those resources;
  - (5) the Forest Service has expertise and resources that could be directed to promote modernization and economic diversification of existing industries and services based on natural resources;
  - (6) the Forest Service has the technical expertise to provide leadership, in cooperation with other governmental agencies and the private sector, to assist rural communities dependent upon National Forest System land resources to upgrade existing industries and diversify by developing new economic activity in non-forest-related industries; and

- (7) technical assistance, training, education, and other assistance provided by the Department of Agriculture can be targeted to provide immediate help to those rural communities in greatest need.
- (b) Purposes.—The purposes of this subchapter are—
  - (1) to provide assistance to rural communities that are located in or near National Forest System land and that are economically dependent upon natural resources or are likely to be economically disadvantaged by Federal or private sector land management practices;
  - (2) to aid in diversifying such communities' economic bases; and
  - (3) to improve the economic, social, and environmental well-being of rural America.

## **Section 2374. Definitions**

- (a) As used in this subchapter:
  - (1) The term “action team” means a rural natural resources and economic diversification action team established by the Secretary pursuant to section 6613(b) of this title.
  - (2) The term “economically disadvantaged” means economic hardship due to the loss of jobs or income (labor or proprietor) derived from forestry, the wood products industry, or related commercial enterprises such as recreation and tourism in the national forest.
  - (3) The term “rural community” means—
    - (A) any town, township, municipality, or other similar unit of general purpose local government, or any area represented by a not-for-profit corporation or institution organized under State or Federal law to promote broad based economic development, or unit of general purpose local government, as approved by the Secretary, that has a population of not more than 10,000 individuals, is located within a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation, forage production, and tourism and that is located within the boundary, or within 100 miles of the boundary, of a national forest; or
    - (B) any county that is not contained within a Metropolitan Statistical Area as defined by the United States Office of Management and Budget, in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation, forage production, and tourism and that is located within the boundary, or within 100 miles of the boundary, of a national forest.
  - (4) The term “Secretary” means the Secretary of Agriculture.

## **Section 2375. Rural Natural Resources and Economic Diversification Action Teams**

- (a) Requests for Assistance.—Economically disadvantaged rural communities may request assistance from the Secretary in identifying opportunities that will promote economic improvement and diversification and revitalization.

- (b) **Establishment.**—Upon request, the Secretary may establish rural natural resources and economic diversification action teams to prepare an action plan to provide technical assistance to economically disadvantaged communities. The action plan shall identify opportunities to promote economic diversification and enhance local economies now dependent upon National Forest System land resources. The action team may also identify opportunities to use value-added products and services derived from National Forest System land resources.
- (c) **Organization.**—The Secretary shall design and organize any action team established pursuant to subsection (b) of this section to meet the unique needs of the requesting rural community. Each action team shall be directed by an employee of the Forest Service and may include personnel from other agencies within the Department of Agriculture, from other Federal and State departments and agencies, and from the private sector.
- (d) **Cooperation.**—In preparing action plans, the Secretary may cooperate with State and local governments, universities, private companies, individuals, and nonprofit organizations for procurement of services determined necessary or desirable.
- (e) **Eligibility.**—The Secretary shall ensure that no substantially similar geographical or defined local area in a State receives a grant for technical assistance to an economically disadvantaged community under this subchapter and a grant for assistance under a designated rural development program during any continuous five-year period.
- (f) **Approval.**—After reviewing requests under this section for financial and economic feasibility and viability, the Secretary shall approve and implement in accordance with section 6614 of this title those action plans that will achieve the purposes of this subchapter.
- (g) **“Designated Rural Development Program” Defined.**—In this section, the term “designated rural development program” means a program carried out under section 1924(b), 1926(a), or 1932(e) of this title for which funds are available at any time during the fiscal year.

## **Section 2376. Action Plan Implementation**

- (a) **In General.**—Action plans shall be implemented, insofar as practicable, to upgrade existing industries to use natural resources more efficiently and to expand the economic base of rural communities so as to alleviate or reduce their dependence on National Forest System land resources.
- (b) **Assistance.**—To implement action plans, the Secretary may make grants and enter into cooperative agreements and contracts to provide necessary technical and related assistance. Such grants, cooperative agreements, and contracts may be with the affected rural community, State and local governments, universities, corporations, and other persons.
- (c) **Limitation.**—The Federal contribution to the overall implementation of an action plan shall not exceed 80 percent of the total cost of the plan, including administrative and other costs. In calculating the Federal contribution, the Secretary shall take into account the fair market value of equipment, personnel, and services provided.

- (d) Available Authority.—The Secretary may use the Secretary's authority under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C.2101 et seq.) and other Federal, State, and local governmental authorities in implementing action plans.
- (e) Consistency with Forest Plans.—The implementation of action plans shall be consistent with land and resource management plans.

### **Section 2377. Training and Education**

- (a) Programs.—In furtherance of an action plan, the Secretary may use the Extension Service and other appropriate agencies of the Department of Agriculture to develop and conduct education programs that assist businesses, elected or appointed officials, and individuals in rural communities to deal with the effects of a transition from being economically disadvantaged to economic diversification. These programs may include—
  - (1) community economic analysis and strategic planning;
  - (2) methods for improving and re-tooling enterprises now dependent on National Forest System land resources;
  - (3) methods for expanding enterprises and creating new economic opportunities by emphasizing economic opportunities in other industries or services not dependent on National Forest System land resources; and
  - (4) assistance in the evaluation, counseling, and enhancement of vocational skills, training in basic and remedial literacy skills, assistance in job seeking skills, and training in starting or operating a business enterprise.
- (b) Existing Educational and Training Programs.—Insofar as practicable, the Secretary shall use existing Federal, State, and private education resources in carrying out these programs.

### **Section 2378. Loans to Economically Disadvantaged Rural Communities**

- (a) In General.—The Secretary, under such terms and conditions as the Secretary shall establish, may make loans to economically disadvantaged rural communities for the purposes of securing technical assistance and services to aid in the development and implementation of action plans, including planning for—
  - (1) improving existing facilities in the community that may generate employment or revenue;
  - (2) expanding existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies now dependent on National Forest System land resources; and
  - (3) supporting the development of new industries or commercial ventures unrelated to National Forest System land resources.
- (b) Interest Rates.—The interest rates on a loan made pursuant to this section shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loan, plus not to exceed 1 percent, as determined by the Secretary, and rounded to the nearest one-eighth of 1 percent.

## **Section 2379. Authorization of Appropriations and Spending Authority**

- (a) Authorization of Appropriations.—Except as provided in subsection (b) of this section, there are authorized to be appropriated—
  - (1) an amount not to exceed 5 percent of the sum of—
    - (A) the sums received by the Secretary from sales of timber and other products of the forests; and
    - (B) user fees paid in connection with the use of forest lands; and
  - (2) such additional sums as may be necessary to carry out the purposes of this subchapter.
- (b) Limitation on Authorization.—Subsection (a) of this section shall not in any way affect payments to the States pursuant to section 500 of Title 16.
- (c) Spending Authority.—Any spending authority (as defined in section 651 of Title 2) provided in this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

## **Rural Development**

The Rural Development component of the Economic Action Programs within the USDA Forest Service was established in 1989 following the direction in the Report of the Senate Committee on Appropriations considering the Forest Service's State and Private Forestry appropriation (Senate Report No. 100-410, July 6, 1988, Appropriations Committee). The direction provided for an "economic diversification through rural development initiative." This language carried with it a specific allocation and broad direction for its implementation. The Senate Committee on Appropriations Report was subsequently accepted in conference. For legislative authority and history see P.L. 100-446, 1989 and P.L. 107-63, 2001.

For more explicit information regarding the conduct of rural development programs this publication includes in Appendix A, the October 24, 2000 letter from the Chief Operating Office of the USDA Forest Service to Line Officers outlining the authority for a rural development program along with the accompanying guidelines which were enclosed with the correspondence.

## **Part 3. Forest Products Conservation and Timber Innovation Program Authorities**

### **Agriculture Improvement Act of 2018**

## **Section 8641. Definitions**

- (a) In this part:
  - (1) Innovative Wood Product.—The term "innovative wood product" means a type of building component or system that uses large panelized wood construction, including mass timber.
  - (2) Mass Timber.—The term "mass timber" includes—
    - (A) cross-laminated timber;
    - (B) nail laminated timber;
    - (C) glue laminated timber;

- (D) laminated strand lumber; and
- (E) laminated veneer lumber.
- (3) Secretary.—The term “Secretary” means the Secretary, acting through the Research and Development deputy area and the State and Private Forestry deputy area of the Forest Service.
- (4) Tall Wood Building.—The term “tall wood building” means a building designed to be—
  - (A) constructed with mass timber; and
  - (B) more than 85 feet in height.

## **Section 8642. Clarification of Research and Development Program for Wood Building Construction**

- (a) In General.—The Secretary shall conduct performance driven research and development, education, and technical assistance for the purpose of facilitating the use of innovative wood products in wood building construction in the United States.
- (b) Activities.—In carrying out subsection (a), the Secretary shall—
  - (1) after receipt of input and guidance from, and collaboration with, the wood products industry, conservation organizations, and institutions of higher education, conduct research and development, education, and technical assistance at the Forest Products Laboratory or through the State and Private Forestry deputy area that meets measurable performance goals for the achievement of the priorities described in subsection (c); and
  - (2) after coordination and collaboration with the wood products industry and conservation organizations, make competitive grants to institutions of higher education to conduct research and development, education, and technical assistance that meets measurable performance goals for the achievement of the priorities described in subsection (c).
- (c) Priorities.—The research and development, education, and technical assistance conducted under subsection (a) shall give priority to—
  - (1) ways to improve the commercialization of innovative wood products;
  - (2) analyzing the safety of tall wood building materials;
  - (3) calculations by the Forest Products Laboratory of the lifecycle environmental footprint, from extraction of raw materials through the manufacturing process, of tall wood building construction;
  - (4) analyzing methods to reduce the lifecycle environmental footprint of tall wood building construction;
  - (5) analyzing the potential implications of the use of innovative wood products in building construction on wildlife; and
  - (6) 1 or more other research areas identified by the Secretary, in consultation with conservation organizations, institutions of higher education, and the wood products industry.
- (d) Timeframe.—To the maximum extent practicable, the measurable performance goals for the research and development, education, and technical assistance conducted under subsection (a) shall be achievable within a 5-year timeframe.



## **Section 8643. Wood Innovation Grant Program**

(a) Definitions.—In this section:

- (1) Eligible Entity.—The term “eligible entity” means—
  - (A) an individual;
  - (B) a public or private entity (including a center of excellence that consists of 1 or more partnerships between forestry, engineering, architecture, or business schools at 1 or more institutions of higher education); or
  - (C) a State, local, or Tribal government.
- (2) Secretary.—The term “Secretary” means the Secretary, acting through the Chief of the Forest Service.

(b) Grant Program.—

- (1) In General.—The Secretary, in carrying out the wood innovation grant program of the Secretary described in the notice of the Secretary entitled “Request for Proposals: 2016 Wood Innovations Funding Opportunity” (80 Fed. Reg. 63498 (October 20, 2015)), may make a wood innovation grant to 1 or more eligible entities each year for the purpose of advancing the use of innovative wood products.
  - (2) Proposals.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Secretary a proposal at such time, in such manner, and containing such information as the Secretary may require.
- (c) Incentivizing Use of Existing Milling Capacity.—In selecting among proposals of eligible entities under subsection (b)(2), the Secretary shall give priority to proposals that include the use or retrofitting (or both) of existing sawmill facilities located in counties in which the average annual unemployment rate exceeded the national average unemployment rate by more than 1 percent in the previous calendar year.
- (d) Matching Requirement.—As a condition of receiving a grant under subsection (b), an eligible entity shall provide funds equal to the amount received by the eligible entity under the grant, to be derived from non-Federal sources.

## **Section 8644. Community Wood Energy and Wood Innovation Program**

Section 9013 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8113) is amended to read as follows:

### **Section 9013. Community Wood Energy and Wood Innovation Program**

(a) Definitions.—In this section:

- (1) Community Wood Energy System.—
  - (A) In General.—The term ‘community wood energy system’ means an energy system that—
    - (i) produces thermal energy or combined thermal energy and electricity where thermal is the primary energy output;

- (ii) services public facilities owned or operated by State or local governments (including schools, town halls, libraries, and other public buildings) or private or nonprofit facilities (including commercial and business facilities, such as hospitals, office buildings, apartment buildings, and manufacturing and industrial buildings); and
  - (iii) uses woody biomass, including residuals—
    - (I) that have not been adulterated with glue or other chemical treatments from wood processing facilities, as the primary fuel; and
    - (II) for which the use of that biomass for energy production does not cause conversion of forests to non-forest use.
  - (B) Inclusions.—The term ‘community wood energy system’ includes single-facility central heating, district heating systems serving multiple buildings, combined heat and electric systems where thermal energy is the primary energy output, and other related biomass energy systems.
- (2) Innovative Wood Product Facility.—The term ‘innovative wood product facility’ means a manufacturing or processing plant or mill that produces—
  - (A) building components or systems that use large panelized wood construction, including mass timber;
  - (B) wood products derived from nanotechnology or other new technology processes, as determined by the Secretary; or
  - (C) other innovative wood products that use low-value, low-quality wood, as determined by the Secretary.
- (3) Mass Timber.—The term ‘mass timber’ includes—
  - (A) cross-laminated timber;
  - (B) nail-laminated timber;
  - (C) glue-laminated timber;
  - (D) laminated strand lumber; and
  - (E) laminated veneer lumber.
- (4) Program.—The term ‘Program’ means the Community Wood Energy and Wood Innovation Program established under subsection (b).
- (b) Competitive Grant Program.—The Secretary, acting through the Chief of the Forest Service, shall establish a competitive grant program to be known as the ‘Community Wood Energy and Wood Innovation Program’.
- (c) Matching Grants.—
  - (1) In General.—Under the Program, the Secretary shall make grants to cover not more than 35 percent of the capital cost for installing a community wood energy system or building an innovative wood product facility.
  - (2) Special Circumstances.—The Secretary may establish special circumstances, such as in the case of a community wood energy system project or innovative wood product facility project involving a school or hospital in a low-income community, under which grants under the Program may cover up to 50 percent of the capital cost.
  - (3) Source of Matching Funds.—Matching funds required pursuant to this subsection from a grant recipient shall be derived from non-Federal funds.

- (d) **Project Cap.**—The total amount of grants under the Program for a community wood energy system project or innovative wood product facility project may not exceed
- (1) in the case of grants under the general authority provided under subsection (c)(1), \$1,000,000; and
  - (2) in the case of grants for which the special circumstances apply under subsection (c)(2), \$1,500,000.
- (e) **Selection Criteria.**—In selecting applicants for grants under the Program, the Secretary shall consider the following:
- (1) The energy efficiency of the proposed community wood energy system or innovative wood product facility.
  - (2) The cost effectiveness of the proposed community wood energy system or innovative wood product facility.
  - (3) The extent to which the proposed community wood energy system or innovative wood product facility represents the best available commercial technology.
  - (4) The extent to which the proposed community wood energy system uses the most stringent control technology that has been required or achieved in practice for a wood-fired boiler of similar size and type.
  - (5)
    - (A) The extent to which the proposed community wood energy system will displace conventional fossil fuel generation.
    - (B) Whether the proposed community wood energy system minimizes emission increases to the greatest extent possible.
  - (6) The extent to which the proposed community wood energy system will increase delivered thermal efficiency of the systems replaced.
  - (7) The extent to which the applicant has demonstrated a high likelihood of project success by completing detailed engineering and design work in advance of the grant application.
  - (8) Other technical, economic, conservation, and environmental criteria that the Secretary considers appropriate.
- (f) **Grant Priorities.**—In selecting applicants for grants under the Program, the Secretary shall give priority to proposals that use the most stringent control technology that has been required or achieved in practice for a wood-fired boiler and—
- (1) would be carried out in a location where markets are needed for the low-value, low-quality wood;
  - (2) would be carried out in a location with limited access to natural gas pipelines;
  - (3) would include the use or retrofitting (or both) of existing sawmill facilities located in a location where the average annual unemployment rate exceeded the national average unemployment rate by more than 1 percent during the previous calendar year; or
  - (4) would be carried out in a location where the project will aid with forest restoration.

(g) Limitations.—

- (1) Capacity of Community Wood Energy Systems.—A community wood energy system acquired with grant funds under the Program shall not exceed nameplate capacity of 5 megawatts of thermal energy or combined thermal and electric energy.
  - (2) Funding for Innovative Wood Product Facilities.—Not more than 25 percent of funds provided as grants under the Program for a fiscal year may go to applicants proposing innovative wood product facilities, unless the Secretary has received an insufficient number of qualified proposals for community wood energy systems.
- (h) Funding.—There is authorized to be appropriated to carry out the Program \$25,000,000 for each of fiscal years 2019 through 2023.

## **Part 4. Watershed Restoration and Enhancement (Wyden Amendment Authorities for NFS-Related Work on Other Lands)**

Public Law 105-277, October 1, 1998, Title III, General Provisions Sec. 323 set up the general authority. It was amended by Public Law 107-63, November 5, 2001, General Provisions, Section 330. The amendment extended the authority until 2005.

### **Title III—General Provisions**

#### **Section. 323. Note: 16 U.S.C. 1011 note**

- (a) Watershed Restoration and Enhancement Agreements.—For fiscal year 1999, 2000, and 2001, to the extent funds are otherwise available, appropriations for the Forest Service may be used by the Secretary of Agriculture for the purpose of entering into cooperative agreements with willing Federal, tribal, State and local governments, private and nonprofit entities and landowners for the protection, restoration and enhancement of fish and wildlife habitat, and other resources on public or private land, the reduction of risk from natural disaster where public safety is threatened, or a combination thereof or both that benefit these resources within the watershed.
- (b) Direct and Indirect Watershed Agreements.—The Secretary of Agriculture may enter into a watershed restoration and enhancement agreement—
- (1) directly with a willing private landowner; or
  - (2) indirectly through an agreement with a State, local or tribal government or other public entity, educational institution, or private nonprofit organization.
- (c) Terms and Conditions.—In order for the Secretary to enter into a watershed restoration and enhancement agreement—
- (1) the agreement shall—
    - (A) include such terms and conditions mutually agreed to by the Secretary and the landowner, state or local government, or private or nonprofit entity;
    - (B) improve the viability of and otherwise benefit the fish, wildlife, and other resources on national forests lands within the watershed;

- (C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;
  - (D) provide for the sharing of costs of implementing the agreement among the Federal Government, the landowner(s), and other entities, as mutually agreed on by the affected interests; and
  - (E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and
- (2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on non-Federal lands, provided such terms and conditions are mutually agreed to by the Secretary and other landowners, State and local governments or both.
- (d) Reporting Requirements.—Not later than December 31, 1999, the Secretary shall submit a report to the Committees on Appropriations of the House and Senate, which contains—
- (1) A concise description of each project, including the project purpose, location on Federal and non-Federal land, key activities, and all parties to the agreement.
  - (2) The funding and/or other contributions provided by each party for each project agreement.

Extension through 2005 P.L. 107-63, Title III, Sec. 330. October 19, 1999—Section 323(a) of the Department of the Interior and Related Agencies Appropriations Act, 1999, as included in Public Law 105-277, Div. A, section 101(e) is amended by inserting ‘and fiscal years 2002 through 2005,’ before ‘to the extent funds are otherwise available’.

Note.—For further guidance on the use of this watershed restoration and enhancement authority readers are advised to consult Forest Service Manual (FSM), Chapter 1500—External Relations and Chapter 1580—Grants, Cooperative Agreements, and Other Agreements as spelled out in Interim Directive No.: 1580-2002-1: Effective Date: October 25, 2002.

## **Part 9. Environmental Service Markets Authorities**

Public Law 99-198, 16 U.S.C. 3845, Dec. 23, 1985, Food Security Act of 1985, set up the general authority. It was amended by Public Law 110-246, June 18, 2008, Food, Conservation, and Energy Act of 2008, Sec. 4(a), title II, Sec. 2709.

### **Title 16, Chapter 58, Subchapter 5**

#### **3845. Environmental Services Markets [16 U.S.C 3845]**

- (a) Technical Guidelines Required.—The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and land management activities in order to facilitate the participation of farmers, ranchers, and forest land owners in emerging environmental services markets. The Secretary shall give priority to

the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

- (b) Establishment.—The Secretary shall establish guidelines under subsection (a) for use in developing the following:
  - (1) A procedure to measure environmental service benefits.
  - (2) A protocol to report environmental services benefits.
  - (3) A registry to collect, record and maintain the benefits measured.
- (c) Verification Requirements.—
  - (1) Verification of Reports.—The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.
  - (2) Role of Third Parties.—In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.
- (d) Use of Existing Information.—In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.
- (e) Consultation.—In carrying out the section, the Secretary shall consult with the following:
  - (1) Federal and State government agencies.
  - (2) Nongovernmental interests including—
    - (A) farm, ranch, and forestry producers;
    - (B) financial institutions involved in environmental services trading;
    - (C) institutions of higher education with relevant expertise or experience;
    - (D) nongovernmental organizations with relevant expertise or experience; and
    - (E) private sector representatives with relevant expertise or experience.
  - (3) Other interested persons, as determined by the Secretary.

## **Part 10. Pest and Disease Revolving Loan Fund Authorities**

Public Law 110-246, 16 U.S.C. 2104a, June 18, 2008, Food, Conservation, and Energy Act of 2008, Section 4(a), title X, Section 10205, set up the general authority.

### **Title 16, Chapter 41**

#### **2104a. Pest and Disease Revolving Loan Fund [16 U.S.C 2104a]**

- (a) Definitions.—In this section:
- (1) Authorized Equipment.—
    - (A) In General.—The Term “authorized equipment” means any equipment necessary for the management of forest land.
    - (B) Inclusions.—The term “authorized equipment” includes—
      - (i) cherry pickers
      - (ii) equipment necessary for—
        - (I) the construction of staging and marshalling areas;
        - (II) The planting of trees; and
        - (III) The surveying of forest land;
      - (iii) Vehicles capable of transporting harvested trees;
      - (iv) Wood chippers; and
      - (v) Any other appropriate equipment, as determined by the Secretary.
    - (2) Fund.—The term “Fund” means the Pest and Disease Revolving Loan Fund established by subsection (b).
    - (3) Secretary.—The term “Secretary” means the Secretary of Agriculture, acting through the Deputy Chief of the State and Private Forestry organization.

(b) Establishment of Fund.—There is established in the Treasury of the United States a revolving fund, to be known as the “Pest and Disease Revolving Loan Fund”, consisting of such amounts as the Secretary determines are necessary to provide loans under subsection (f).

(c) Expenditures from Fund.—

    - (1) In General.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (e).
    - (2) Administrative Expenses.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) Transfers of Amounts.—

    - (1) In General.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

- (2) Adjustments.—Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.
- (e) Uses of Fund.—
- (1) Loans.—
- (A) In General.—The Secretary shall use amounts in the Fund to provide loans to eligible units of local government to finance purchases of authorized equipment to monitor, remove, dispose of, and replace infested trees that are located
- (i) On land under the jurisdiction of the eligible units of local government; and
- (ii) Within the borders of quarantine areas infested by plant pests.
- (B) Maximum Amount.—The maximum amount of a loan that may be provided by the Secretary to an eligible unit of local government under this subsection shall be the lesser of—
- (i) The amount that the eligible unit of local government has appropriated to finance purchases of authorized equipment in accordance with subparagraph (A); or
- (ii) (ii) \$5,000,000
- (C) Interest Rate.—The interest rate on any loan made by the Secretary under this paragraph shall be a rate equal to 2 percent.
- (D) Report.—Not later than 180 days after the date on which an eligible unit of local government receives a loan provided by the Secretary under subparagraph (A), the eligible unit of local government shall submit to the Secretary a report that describes each purchase made by the eligible unit of local government using assistance provided through the loan.
- (2) Loan Repayment Schedule.—
- (A) In General.—To be eligible to receive a loan from the Secretary under paragraph (1), in accordance with each requirement described in subparagraph (B), an eligible unit of local government shall enter into an agreement with the Secretary to establish a loan repayment schedule relating to the repayment of the loan.
- (B) Requirements Relating to Loan Repayment Schedule.—A loan repayment schedule established under subparagraph (A) shall require the eligible unit of local government—
- (i) To repay to the Secretary of the Treasury, not later than 1 year after the date on which the eligible unit of local government receives loan under paragraph (1), and semiannually thereafter, an amount equal to the quotient obtained by dividing—
- (I) The principal amount of the loan (including interest); by
- (II) The total quantity of payments that the eligible unit of local government is required to make during the repayment period of the loan; and



- (ii) Not later than 20 years after the date on which the eligible unit of local government receives a loan under paragraph (1), to complete repayment to the Secretary of the Treasury of the loan made under this section (including interest).
- (f) Authorizations of Appropriations.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

## **Part 11. Cooperative Fire Assistance Programs**

### **Authorities for Forest Service Fire Mission**

Federal agencies must have explicit authority to perform functions. These authorities must be supported by law. The ability to acquire Federal resources is based on these authorities, supported by State and local agreements. By law, Federal entities are not involved in inter- or intrastate compacts. These are the authorities related to the Forest Service fire mission:

#### **Weeks Act (36 Stat. 961)**

Authorizes the Secretary of Agriculture to “Examine, locate and recommend for purchase... such lands within the watersheds of navigable streams as...may be necessary to the regulation of flow of navigable streams...” The Act further states that lands so acquired will be reserved and administered as national forests. The Act also provided for cooperation in fire control between federal and state authorities, and authorized matching funds for State forest protection agencies that met government (Forest Service) standards.

#### **Clarke-McNary Act (Ch. 348, 43 Stat. 653)**

Substantially expanded and modified the Weeks Act and authorizes the Secretary of Agriculture to work cooperatively with State officials for better forest and grants to states for forest fire control were authorized. (NOTE: In 1978, Section 2 of the Clark-McNary Act was superseded by Section 7 of the Cooperative Forestry Assistance Act [PL 95-313]. This Act provided for the Federal Government to provide technical assistance and grants to states for protection, chiefly in fire control and water resources. It was the authority for which Federal assistance purposes of wild land and rural community fire prevention and suppression control.)

#### **Economy Act (31 U.S.C. 1535)**

Authorizes Federal agencies to provide goods or services, on a reimbursable basis, to other Federal agencies when more specific statutory authority does not exist.

#### **Intergovernmental Cooperation Act (31 U.S.C. 6505)**

Authorizes Federal agencies to provide specialized or technical services to State, Tribal, and local governments. Services must be functions that the Federal agency is especially equipped and authorized by law to perform. The parties must have a valid reimbursable agreement in place before incurring obligations and expenditures. Services may not be provided unless the agency providing the services is providing similar services for its own use, and services cannot be provided reasonably and expeditiously by the requesting entity through ordinary business channels.

### **Rural Fire Prevention and Control Act (16 U.S.C. 2106)**

Authorizes the Secretary of Agriculture to cooperate with State foresters or equivalent State officials in developing systems and methods for the prevention, control, suppression, and prescribed use of fires on rural lands and in rural communities, and to provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, including rural volunteer fire departments: 1) for the prevention, control, suppression, and prescribed use of fires on non-Federal forest lands and other non-Federal lands; 2) to organize, train, and equip local firefighting forces to prevent, control, and suppress fires threatening human lives, crops, livestock, farmsteads or other improvements, pastures, orchards, wildlife, rangeland, woodland, and other resources in rural areas; and 3) to conduct preparedness and mobilization activities, including training, equipping, and otherwise enabling State and local firefighting agencies to respond to requests for fire suppression assistance.

### **Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c)**

Revised the authorities of the Clarke-McNary Act and authorizes the Secretary of Agriculture to establish a variety of cooperative programs to protect and manage non-Federal forest lands, including rural fire emergency support to States.

### **Executive Order 10427**

Federal disaster assistance is intended to support, not supplant, local resources.

### **Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 100-707)**

Provides the statutory framework for a Presidential declaration of an emergency or a declaration of a major disaster, and describes the programs and processes by which the Federal Government provides disaster and emergency assistance to State and local governments, tribal nations, eligible private nonprofit organizations, and individuals affected by a declared major disaster or emergency. The Stafford Act structure for the declaration process reflects the fact that federal resources under this act supplement state and local resources for disaster relief and recovery. The Stafford Act covers all hazards, including natural disasters and terrorist events.

### **Temporary Emergency Wildfire Suppression Act (102 Stat. 1615)**

Authorizes the Secretary of the Interior and the Secretary of Agriculture to enter into agreements with foreign fire organizations for wildfire protection, to furnish or accept emergency wildfire protection resources from foreign fire organizations, and to incur obligations for reimbursement to Canada or Canadian organizations in furnishing U.S. wildfire protection resources.

### **Wildfire Suppression Assistance Act (P.L. 101-11)**

Makes the Temporary Emergency Wildfire Suppression Act permanent.

### **Reciprocal Fire Protection Act (42 U.S.C. Section 1856a) as amended**

Provides authority for federal agencies to enter into reciprocal agreements with fire organizations for mutual aid fire protection.

## **42 U.S. Code Section 1856. Definitions**

As used in this subchapter—

- (a) The term “agency head” means the head of any executive department, military department, agency, or independent establishment in the executive branch of the Government;
- (b) The term “fire protection” includes personal services and equipment required for fire prevention, the protection of life and property from fire firefighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions; and
- (c) The term “fire organization” means any governmental entity or public or private corporation or association maintaining fire protection facilities within the United States, its Territories and possessions, and any governmental entity or public or private corporation or association which maintains fire protection facilities in any foreign country in the vicinity of any installation of the United States.

## **42 U.S. Code Section 1856a**

- (a) Each agency head charged with the duty of providing fire protection for any property of the United States is authorized to enter into a reciprocal agreement, with any fire organization maintaining fire protection facilities in the vicinity of such property, for mutual aid in furnishing fire protection for such property and for other property for which such organization normally provides fire protection. Each such agreement shall include a waiver by each party of all claims against every other party for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement. Any such agreement may provide for the reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party.
- (b) Any agreement heretofore executed which would have been authorized by this subchapter, if this subchapter had been in effect on the date of execution thereof, is ratified and confirmed.

## **42 U.S. Code Section 1856b. Emergency assistance**

In the absence of any agreement authorized or ratified by section 1856a of this title, each agency head is authorized to render emergency assistance in extinguishing fires and in preserving life and property from fire, within the vicinity of any place at which such agency maintains fire-protection facilities, when the rendition of such assistance is determined, under regulations prescribed by the agency head, to be in the best interest of the United States.

## **42 U.S. Code Section 1856c. Service in line of duty**

Any service performed under section 1856a or section 1856b of this title, by any officer or employee of the United States or any member of any armed force of the United States shall constitute service rendered in line of duty in such office, employment, or force. The performance of such service by any other individual shall not constitute such individual an officer or employee of the United States for the purposes of subchapter I of chapter 81 of title 5.

#### **42 U.S. Code Section 1856d. Funds**

- (a) Funds available to any agency head for fire protection on installations or in connection with activities under the jurisdiction of such agency may be used to carry out the purposes of this subchapter. All sums received by any agency head for fire protection rendered pursuant to this subchapter shall be covered into the Treasury as miscellaneous receipts.
- (b) Notwithstanding subsection (a), all sums received as reimbursements for costs incurred by any Department of Defense or Department of Agriculture activity for fire protection rendered pursuant to this subchapter shall be credited to the same appropriation or fund from which the expenses were paid or, if the period of availability for obligation for that appropriation has expired, to the appropriation or fund that is currently available to the activity for the same purpose. Amounts so credited shall be subject to the same provisions and restrictions as the appropriation or account to which credited.

#### **42 U.S. Code Section 1856e. Reimbursement of fire funds**

- (a) Definition of State. In this section, the term "State" means—
  - (1) a State; and
  - (2) the Commonwealth of Puerto Rico.
- (b) In general If a State seeks reimbursement for amounts expended for resources and services provided to another State for the management and suppression of a wildfire, the Secretary, subject to subsections (c) and (d)—
  - (1) may accept the reimbursement amounts from the other State; and
  - (2) shall pay those amounts to the State seeking reimbursement.
- (c) Mutual assistance agreement

As a condition of seeking and providing reimbursement under subsection (b), the State seeking reimbursement and the State providing reimbursement must each have a mutual assistance agreement with the Forest Service or another Federal agency for providing and receiving wildfire management and suppression resources and services.
- (d) Terms and conditions

The Secretary may prescribe the terms and conditions determined to be necessary to carry out subsection (b).
- (e) Effect on prior reimbursements

Any acceptance of funds or reimbursements made by the Secretary before February 7, 2014, that otherwise would have been authorized under this section shall be considered to have been made in accordance with this section.

#### **42 U.S. Code Section 1856a–1. Authority to enter into contracts with State and local governmental entities.**

Notwithstanding any other provision of law, in fiscal year 1992 and thereafter, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Army, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the pre-suppression, detection, and suppression of fires on any units within their jurisdiction.

## **42 U.S. Code 1856. Subchapter II— Wildfire Suppression with Foreign Fire Organization**

42 U.S.C. Sections 1856 m and n. Provide authority to enter into reciprocal agreements with foreign fire organizations.

### **Section 1856m. Definitions.**

(a) In this subchapter:

- (1) Assume any and all liability: The term "assume any and all liability" means—
  - (A) the payment of—
    - (i) any judgment, settlement, fine, penalty, or cost assessment (including prevailing party legal fees) associated with the applicable litigation; and
    - (ii) any cost incurred in handling the applicable litigation (including legal fees); and
    - (iii) with respect to a Federal firefighter, arranging for, and paying the costs of, representation in the applicable litigation.
- (2) Federal firefighter  
The term "Federal firefighter" means an individual furnished by the Secretary of Agriculture or the Secretary of the Interior under an agreement entered into under section 1856n of this title.
- (3) Foreign fire organization  
The term "foreign fire organization" means any foreign governmental, public, or private entity that has wildfire protection resources.
- (4) Foreign firefighter  
The term "foreign firefighter" means an individual furnished by a foreign fire organization under an agreement entered into under section 1856n of this title.
- (5) Wildfire  
The term "wildfire" means any forest or range fire.
- (6) Wildfire protection resources  
The term "wildfire protection resources" means any personnel, supplies, equipment, or other resources required for wildfire pre-suppression and suppression activities.

### **42 U.S. Code Section 1856n. Implementation.**

- (a) Exchange of wildfire protection resources under a reciprocal agreement with a foreign fire organization
  - (1) Authority to Enter into a Reciprocal Agreement.—The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

- (2) Requirements for a Reciprocal Agreement.—Any agreement entered into under this subsection—
  - (A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;
  - (B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and
  - (C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.
- (b) Exchange of Wildfire Protection Resources without a Reciprocal Agreement.—In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—
  - (1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States; and
  - (2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.
- (c) Reimbursement under Agreements with Canada.—Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—
  - (1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and
  - (2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982.
- (d) Service Performed under this Subchapter by Federal Employees
  - (1) In General.—Any service performed by any employee of the United States under an agreement or otherwise under this subchapter shall constitute service rendered in the line of duty in such employment.
  - (2) Effect.—Except as provided in section 1856n–1 of this title, the performance of such service by any other individual shall not make such individual an employee of the United States.

## Other Authorities

The following 3 authority documents will need to be accessed via the internet due to their length:

- Robert T. Stafford Act: <https://www.fema.gov/media-library/assets/documents/15271>
- Oil Pollution Act of 1990  
<https://legcounsel.house.gov/Comps/Oil%20Pollution%20Act%20Of%201990.pdf>
- Subchapter J, etc.: <https://www.govinfo.gov/content/pkg/CFR-1999-title40-vol20/pdf/CFR-1999-title40-vol20-chapI-subchapJ.pdf>

In addition to the authorities previously listed, there are several other programs administered by the Forest Service that use a variety of authorities ranging from published regulations to statutes. These programs include the Federal Excess Property Program, Firefighter Property Program, Smoke Management, and Hazardous Fuels Treatments on Non-Federal Lands. The following sections describe these programs and the authorities from which they operate:

### Federal Excess Property Program – FEPP

State foresters and the USDA Forest Service have mutually participated in the FEPP program since 1956. This participation stems from Forest Service authorization to furnish fire control stocks to States from Forest Service warehouses. When GSA took over these warehouses, they agreed, in a 1956 Memorandum of Understanding, to stock and distribute fire control equipment and supplies from the GSA Federal Supply Service. This formed the basis of the Forest Service proposal to GSA to make FEPP available to State forestry agencies. After review, GSA administratively agreed to extend this privilege to State foresters or other authorized State officials participating in the Cooperative Fire Protection program.

Program authorities include the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 483) and the Cooperative Forestry Assistance Act of 1978, (16 U.S.C. 2101 (note)). Other references and regulations include the USDA Organic Act of 1944, (16 U.S.C. 580a) and the Federal Property Management Regulations 101-43.309-1; 101-43-313; and 101-43-314; in (40 U.S.C. 483).

Section 10(c) of the Cooperative Forestry Assistance Act of 1978 (P.L. 95-313), directs the Secretary of Agriculture to encourage use of FEPP by States and local fire forces. This was reaffirmed in a 1991 Memorandum from Kenneth E. Cohen, Assistant General Counsel, USDA, to L.A. Amicarella, USDA Forest Service Fire Director.

Unlike the Volunteer Fire Assistance (VFA) program, which is for the benefit of communities with a population at or below 10,000, recipients of FEPP need only have a wildland or rural fire responsibility that satisfies the State forester.

The FEPP program is a separate and distinct support facility for the Cooperative Fire Protection program.

The Federal Government may have one of three types of relationship with non-Federal organizations: grants, contracts, and cooperative agreements. The FEPP program is handled by a cooperative agreement because of the "substantial involvement" between the Forest Service and the individual State foresters. When the State forester assigns FEPP to a fire department or fire district, an additional cooperative agreement is required at that level. The USDA Forest Service cooperates with the fire department or fire district only by proxy.

### **Firefighter Property Program – FFP**

In 2005, the USDA Forest Service signed a Memorandum of Agreement with the Department of Defense (DoD) giving the USDA Forest Service management of the DoD Firefighting property transfers authorized under 10 U.S.C. 2576b to be carried out through the USDA Forest Service, Fire and Aviation Management. In order to make the DoD excess property program, aka the 1706 Program, more accessible and better known to State and local firefighting and emergency service providers; the USDA Forest Service works in cooperation with the State agency responsible for wildland and rural firefighting to ensure authorized and qualified firefighting entities are Users/Recipients of the property.

The Federal Government may have one of three types of relationship with non-Federal organizations: grants, contracts, and cooperative agreements. The FFP program is handled by a cooperative agreement because of the "substantial involvement" between the USDA Forest Service and the individual State Agency. When the State Agency assigns FFP to a fire department or fire district, an additional cooperative agreement is required at that level. The USDA Forest Service cooperates with the fire department or fire district only by proxy. This Cooperative Agreement is not intended to be used as a template. All agreements should be processed through the State Agency and USDA Forest Service Regional/Area office prior to signature.

The DoD, including its Inspector General, audits the FFP program periodically and reports the findings to Congress. The United States Department of Agriculture (USDA) Office of the Inspector General (OIG) audits the program periodically. The USDA Forest Service, Fire and Aviation Management will audit the program periodically.

The primary program authority for the FFP program is Section 1706 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (P.L. 106-398).

#### ***Section 1706. Sale or Donation of Excess Defense Property to Assist Firefighting Agencies.***

- (a) Transfer Authorized.—Chapter 153 of title 10, United States Code, is amended by inserting after section 2576a the following new section:

#### ***Section 2576b. Excess personal property: sale or donation to assist firefighting agencies***

- (a) Transfer Authorized.—Subject to subsection (b), the Secretary of Defense may transfer to a firefighting agency in a State any personal property of the Department of Defense that the Secretary determines is—
- (1) excess to the needs of the Department of Defense; and



- (2) suitable for use in providing fire and emergency medical services, including personal protective equipment and equipment for communication and monitoring.
- (b) Conditions for Transfer.—The Secretary of Defense may transfer personal property under this section only if—
  - (1) the property is drawn from existing stocks of the Department of Defense;
  - (2) the Recipient firefighting agency accepts the property on an as-is, where-is basis;
  - (3) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and
  - (4) all costs incurred subsequent to the transfer of the property are borne or reimbursed by the Recipient.
- (c) Consideration.—Subject to subsection (b)(4), the Secretary may transfer personal property under this section without charge to the Recipient firefighting agency.
- (d) Definitions.—In this section:
  - (1) State.—The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.
  - (2) Firefighting Agency.—The term 'firefighting agency' means any volunteer, paid, or combined departments that provide fire and emergency medical services.

## **Smoke Management and Air Quality**

The legal foundation of air quality regulation in the United States is the Federal Clean Air Act (Public Law 95-95). Various programs described in the Clean Air Act aim to protect public health and welfare from common types of air pollution. Individual states implement the Clean Air Act by developing local approaches for meeting the requirements through their state implementation plans (SIPs). Tribes develop tribal implementation plans (TIPs) for their lands.

National ambient air quality standards (NAAQS) are defined in the Clean Air Act as standards for criteria pollutants (wide-spread pollutants that are considered harmful to the public and the environment). Fine particulate matter (PM<sub>2.5</sub>) is the pollutant from wildland fire that is most likely to threaten exceedance of a NAAQS. Through their SIPs, States define programs for implementation, maintenance, and enforcement of NAAQS within their boundaries. State smoke management programs may be an official part of a SIP.

### ***General Conformity Regulations (40 CFR Parts 51 and 93)***

The Environmental Protection Agency (EPA) promulgated two sets of regulations to implement Section 176(c) of the Clean Air Act. EPA promulgated regulations, known as the General Conformity Regulation (40 CFR Parts 51 and 93), which apply to all other Federal actions not associated with Transportation Conformity. These regulations ensured that other federal actions also conformed to the SIPs (58 FR 63214). Transportation conformity regulations apply to highways and mass transit projects funded under title 23 U.S.C. or the Federal Transit Act conform with the State Implementation Plan (SIP) (58 FR 62188). Both conformity regulations only apply within the boundaries of non-attainment or maintenance areas.

The purpose of the General Conformity rule is to ensure that:

- federal activities or federally funded activities do not cause or contribute to new violations of National Ambient Air Quality Standards (NAAQS);
- actions do not worsen existing violations of the NAAQS; and
- attainment of the NAAQS is not delayed.

General Conformity covers most aspects of federally funded or approved actions not covered by the Transportation Conformity program. To meet General Conformity requirements, Federal entities, or entities whose projects use Federal monies such as prescribed fire, must demonstrate that emissions from their actions will not exceed emission budgets established in a state's plan to attain or maintain the NAAQS. A prescribed fire project must do a conformity analysis before implementation if it meets the following conditions:

- located in a non-attainment or maintenance area,
- with emissions above conformity de-minimis thresholds (<https://www.epa.gov/general-conformity/de-minimis-tables>),
- emissions not already reflected in the SIP, and
- not on the EPA "presumed to conform" list.

#### ***Treatment of Data Influenced by Exceptional Events (40 CFR Parts 50 and 51)***

The Environmental Protection Agency (EPA) recognized that it may not be appropriate to use air quality monitoring data influenced by "exceptional" events that are collected by the ambient air quality monitoring network when making certain regulatory determinations. When "exceptional" events cause exceedances or violations of the national ambient air quality standards (NAAQS) that subsequently affect certain regulatory decisions, the normal planning and regulatory process established by the Clean Air Act may not be appropriate. The Exception Events Rule (EER) provides a way for air quality monitoring data to be excluded from regulatory decisions and actions such as nonattainment designations if a state can provide convincing evidence to EPA that high monitoring values are the result of an exceptional event. Wildfires and prescribed fires can be considered exceptional events.

The 2016 EER recognizes that wildfires which predominately occur on wildlands are natural events. Therefore, air monitoring data showing an exceedance of a NAAQS caused by wildfire smoke can be classified as an exceptional event if the effects can be proven to be from a wildfire. In addition, the EER recognizes the ecological benefits of prescribed fire and that appropriate use of prescribed fire can reduce the risk of wildfires. The EER clarifies that if smoke from a prescribed fire results in exceedance of a NAAQS, the prescribed fire could be considered an exceptional event if it meets all of the criteria identified in the EER.

In accordance with EPA's 2016 EER, for monitoring data to be excluded from a state's air quality record because of a specific prescribed fire, a state must document, subject to EPA's review and concurrence, the following for each exceedance event:

- (a) The prescribed fire caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location.

(b) The prescribed fire meets the definition of “exceptional event.” Exceptional event means an event that affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event, and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event.

(1) With respect to the requirement that a prescribed fire be not reasonably controllable, the State must either certify that it has adopted and is implementing a smoke management program or the State must demonstrate that the burn manager employed appropriate basic smoke management practices (BSMPs) identified in the EER. The BSMPs in the EER are:

- (A) Evaluate smoke dispersion conditions,
- (B) monitor effects on air quality,
- (C) record-keeping/maintain a burn/smoke journal,
- (D) communication-public notification,
- (E) consider emission reduction techniques, and
- (F) share the airshed – coordination of area burning.

If a State is relying on application of BSMPs, land managers, burn managers, and air agencies must collaborate on the process for working together to select and apply appropriate BSMPs.

(2) With respect to the requirement that a prescribed fire be not reasonably preventable, the State may rely upon and reference a multi-year land or resource management plan for a wildland area with a stated objective to establish, restore and/or maintain a sustainable and resilient wildland ecosystem and/or to preserve endangered or threatened species through a program of prescribed fire.

(3) Regarding the human activity unlikely to recur at a particular location criterion, the State must describe the actual frequency with which a burn was conducted, but may rely upon and reference an assessment of the natural fire return interval or the prescribed fire frequency needed to establish, restore and/or maintain a sustainable and resilient wildland ecosystem contained in a multi-year land or resource management plan meeting the criteria discussed above.

In general, it is in the best interests of land managers who rely on the use of prescribed fire to assist with state efforts to document exceptional events when possible to prevent non-attainment designations.

## **Hazardous Fuels Treatments on Non-Federal Lands**

The Forest Service has authority to provide hazardous fuels funding to State Foresters to assist with reducing the risk of wildfire by completing hazardous fuels reduction projects on certain non-federal lands. Section 8401 of the Agriculture Improvement Act of 2018 (2018 Farm Bill) modified Section 103 of the Healthy Forests Restoration Act of 2003 to make this authority permanent.

**Section 8401. Promoting Cross-Boundary Wildfire Mitigation.**

Section 103 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6513) is amended by adding at the end the following:

**(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 2A(a) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101a(a)), 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 8206 of the Agricultural Act of 2014 (16 U.S.C. 2113a); 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.

## **Appendix A. National Agroforestry Research Center**

### **Semiarid Agroforestry Research Center**

Section 1243 of Pub. L. 101-624 provided that:

- (a) Semiarid Agroforestry Research, Development, And Demonstration Center.—The Secretary of Agriculture shall establish at the Forestry Sciences Laboratory of the United States Forest Service, in Lincoln, Nebraska, a Semiarid Agroforestry Research, Development, and Demonstration Center (hereafter referred to in this section as the “Center”) and appoint a Director to manage and coordinate the program established at the Center under subsection (b).
- (b) Program.—The Secretary shall establish a program at the Center and seek the participation of Federal or State government entities, land-grant colleges or universities, State agriculture experiment stations, State and private foresters, the Arbor Day Foundation, and other nonprofit foundations in such program to conduct or assist research, investigations, studies, and surveys to—
  - (1) develop sustainable agroforestry systems on semiarid lands that minimize topsoil loss and water contamination and stabilize or enhance crop productivity;
  - (2) adapt, demonstrate, document, and model the effectiveness of agroforestry systems under different farming systems and soil or climate conditions;
  - (3) develop dual use agroforestry systems compatible with paragraphs (1) and (2) which would provide high-value forestry products for commercial sale from semiarid land;
  - (4) develop and improve the drought and pest resistance characteristics of trees for conservation forestry and agroforestry applications in semiarid regions, including the introduction and breeding of trees suited for the Great Plains region of the United States;
  - (5) develop technology transfer programs that increase farmer and public acceptance of sustainable agroforestry systems;
  - (6) develop improved windbreak and shelterbelt technologies for drought preparedness, soil and water conservation, environmental quality, and biological diversity on semiarid lands;
  - (7) develop technical and economic concepts for sustainable agroforestry on semiarid lands, including the conduct of economic analyses of the costs and benefits of agroforestry systems and the development of models to predict the economic benefits under soil or climate conditions;
  - (8) provide international leadership in the development and exchange of agroforestry practices on semiarid lands worldwide;
  - (9) support research on the effects of agroforestry systems on semiarid lands in mitigating nonpoint source water pollution;
  - (10) support research on the design, establishment, and maintenance of tree and shrub plantings to regulate the deposition of snow along roadways; and
  - (11) Conduct sociological, demographic, and economic studies as needed to develop strategies for increasing the use of forestry conservation and agroforestry practices.

- (c) Information Collection and Dissemination.—The Secretary shall establish at the Center a program, to be known as the National Clearinghouse on Agroforestry Conservation and Promotion to—
  - (1) Collect, analyze, and disseminate information on agroforestry conservation technologies and practices; and
  - (2) Promote the use of such information by landowners and those organizations associated with forestry and tree promotion.
- (d) Authorization of Appropriations.—There are authorized to be appropriated \$5,000,000 for each of fiscal years 2019 through 2023 to carry out this section.

