

SUBCHAPTER IV—INSECT INFESTATIONS
AND RELATED DISEASES

§ 6551. Findings and purpose

(a) Findings

Congress finds that—

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

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

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

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

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

(3) the hemlock woolly adelgid is—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Purposes

The purposes of this subchapter are—

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

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

(3) to carry out applied silvicultural assessments.

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

§ 6552. Definitions

In this subchapter:

(1) Applied silvicultural assessment

(A) In general

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

(B) Inclusions

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

(2) 1890 Institution

(A) In general

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

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

(B) Inclusion

The term “1890 Institution” includes Tuskegee University.

(3) Forest-damaging insect

The term “forest-damaging insect” means—

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

(4) Secretary

The term “Secretary” means—

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

(B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

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

REFERENCES IN TEXT

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

§ 6553. Accelerated information gathering regarding forest-damaging insects

(a) Information gathering

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

(1) to plan, conduct, and promote comprehensive and systematic information gathering on forest-damaging insects and associated diseases, including an evaluation of—

- (A) infestation prevention and suppression methods;
- (B) effects of infestations and associated disease interactions on forest ecosystems;
- (C) restoration of forest ecosystem efforts;
- (D) utilization options regarding infested trees; and
- (E) models to predict the occurrence, distribution, and impact of outbreaks of forest-damaging insects and associated diseases;

(2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of forest-damaging insects and associated diseases on Federal land and State and private land; and

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

(b) Cooperation and assistance

The Secretary shall—

(1) establish and carry out the program in cooperation with—

(A) scientists from colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions);

(B) Federal, State, and local agencies; and

(C) private and industrial landowners; and

(2) designate such colleges and universities to assist in carrying out the program.

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

§ 6554. Applied silvicultural assessments

(a) Assessment efforts

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

(b) Limitations

(1) Exclusion of certain areas

Subsection (a) does not apply to—

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

(B) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;

(C) a congressionally-designated wilderness study area; or

(D) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

(2) Certain treatment prohibited

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

(3) Peer review

(A) In general

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

(B) Existing peer review processes

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

(c) Public notice and comment

(1) Public notice

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

(2) Public comment

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

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

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

(2) Administration

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

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

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

(3) Maximum categorical exclusion

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

(4) No additional findings required

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

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

REFERENCES IN TEXT

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

§ 6555. Relation to other laws

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

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

§ 6556. Authorization of appropriations

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

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

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

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

pose of restoring and enhancing forest ecosystems—

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

(b) Coordination

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

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

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

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

(b) Eligibility

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

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

- (A) are not listed as endangered or threatened under section 1533 of this title; but
- (B) are candidates for such listing, State-listed species, or special concern species.

(c) Other considerations

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

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

(d) Enrollment by willing owners

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

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

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

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

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

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

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