

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

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

(2) Administration

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

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

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

(3) Maximum categorical exclusion

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

(4) No additional findings required

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

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

REFERENCES IN TEXT

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

§ 6555. Relation to other laws

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

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

§ 6556. Authorization of appropriations

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

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

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

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

pose of restoring and enhancing forest ecosystems—

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

(b) Coordination

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

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

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

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

(b) Eligibility

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

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

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

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

(c) Other considerations

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

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

(d) Enrollment by willing owners

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

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

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

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

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

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

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

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

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

(B) Repooling

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

(3) Acreage owned by Indian tribes

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

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

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

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

(f) Enrollment priority

(1) Species

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

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

(B) secondarily, species that—

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

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

(2) Cost-effectiveness

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

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

CODIFICATION

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

AMENDMENTS

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

§ 6573. Restoration plans

(a) In general

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

(b) Practices

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

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

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

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

§ 6574. Financial assistance

(a) Permanent easements

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

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

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

(b) Thirty-year easement

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

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

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

(c) Ten-year agreement

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

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

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

(d) Acceptance of contributions

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

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

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

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

CODIFICATION

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

AMENDMENTS

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

§ 6575. Technical assistance

(a) In general

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

(b) Technical service providers

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

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

§ 6576. Protections and measures

(a) Protections

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

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

(b) Measures

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

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

§ 6577. Involvement by other agencies and organizations

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

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

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

§ 6578. Funding

(a) In general

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

(b) Duration of availability

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

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

CODIFICATION

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

SUBCHAPTER VI—MISCELLANEOUS

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

(a) In general

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

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

(b) Issues to be addressed

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