

paragraph (A), shall attempt to achieve landowner and public purposes including—

- (i) the establishment, management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes;
- (ii) the sustainable growth and management of forests for timber production;
- (iii) the protection, restoration, and use of forest wetlands;
- (iv) the enhanced management and maintenance of native vegetation on other lands vital to water quality;
- (v) the growth and management of trees for energy conservation purposes;
- (vi) the management and maintenance of fish and wildlife habitat;
- (vii) the management of outdoor recreational opportunities; and
- (viii) other activities approved by the Secretary.

**(c) Reimbursement of eligible activities**

**(1) In general**

The Secretary shall share the cost of developing and carrying out the forest stewardship plan under section 2103a(f) of this title, and in implementing the approved activities that the Secretary determines are appropriate and in the public interest, with a landowner who has entered in an agreement to place the forest land of such owner into the Program.

**(2) Rate**

The Secretary, in consultation with the State forester, or equivalent State official, shall determine the appropriate reimbursement rate for cost-share payments under paragraph (1) and the schedule for making such payments.

**(3) Maximum**

The Secretary shall not make cost-share payments under this subsection to a landowner in an amount in excess of 75 percent of the total cost to such landowner of developing the forest stewardship plan and implementing eligible activities under the plan. The maximum payments to any one landowner shall be determined by the Secretary.

**(d) Recapture**

**(1) In general**

The Secretary shall establish and implement a mechanism to recapture payments made to a landowner in the event that the landowner fails to implement any approved activity specified in the forest stewardship plan for which such owner received cost-share payments.

**(2) Additional provision**

The provisions of paragraph (1) are in addition to any other provision available.

**(e) Distribution**

The Secretary shall distribute funds available for cost sharing under this section among the States only after assessing the public benefit incident to such distribution and after giving appropriate consideration to—

- (1) the total acreage of nonindustrial private forest land in each State;

- (2) the potential productivity of such land;

- (3) the number of owners eligible for cost sharing in each State;

- (4) the need for reforestation in each State;

- (5) the opportunities to enhance nontimber resources on such forest lands; and

- (6) the anticipated demand for timber and nontimber resources in each State.

**(f) Authorization of appropriations**

There are authorized to be appropriated \$100,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary thereafter, to carry out this section.

(Pub. L. 95–313, § 6, as added Pub. L. 101–624, title XII, § 1216, Nov. 28, 1990, 104 Stat. 3526.)

**PRIOR PROVISIONS**

A prior section 6 of Pub. L. 95–313 was renumbered section 9 and is classified to section 2105 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 2106b of this title.

**§ 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) of this section 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 515 of this title and section 428a(a) of title 7, 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) of this section 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 af-

fect the values identified, and obtain from the landowner 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 2113(b) of this title 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) of this section.

**(g) State consent**

Where a State has not approved the acquisition of land under section 515 of this title, 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) of this section.

**(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)<sup>1</sup> of this section, 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-recording or renewal of the easement; or

<sup>1</sup> So in original. Probably should be subsection “(c)”.

(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.

## (I) 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) of this section, 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.

## (m) Appropriation

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 95-313, § 7, as added Pub. L. 101-624, title XII, § 1217, Nov. 28, 1990, 104 Stat. 3528; amended Pub. L. 102-237, title X, § 1018(a)(2), Dec. 13, 1991, 105 Stat. 1905; Pub. L. 104-127, title III, § 374, Apr. 4, 1996, 110 Stat. 1015.)

#### REFERENCES IN TEXT

Public Law 100-446, referred to in subsec. (d)(2), is Pub. L. 100-446, Sept. 27, 1988, 102 Stat. 1774. Provisions of the Act relating to functions of the Secretary of Agriculture in connection with forest lands are not classified to the Code. For complete classification of this Act to the Code, see Tables.

#### PRIOR PROVISIONS

A prior section 7 of Pub. L. 95-313 was renumbered section 10 and is classified to section 2106 of this title.

#### AMENDMENTS

1996—Subsecs. (l), (m). Pub. L. 104-127 added subsec. (l) and redesignated former subsec. (l) as (m).

1991—Subsec. (d)(2). Pub. L. 102-237, § 1018(a)(2)(A), substituted “November 28, 1991” for “1 year after November 28, 1990”.

Subsec. (e). Pub. L. 102-237, § 1018(a)(2)(B), substituted “Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 2113(b)” for “Within 1 year from November 28, 1990, and in consultation with State Forest Stewardship Advisory Committees established under section 15(b)”.

Subsec. (f). Pub. L. 102-237, § 1018(a)(2)(C), substituted “subsection (e)” for “subsection (d)”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2106b, 2113 of this title.

## § 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) of this section 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 af-