

(ii) the establishment of riparian vegetative buffers.

**(4) Cost-sharing**

**(A) Federal share**

**(i) Funds under this subsection**

Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project.

**(ii) Other Federal funds**

The percentage of the cost of a project described in clause (i) that is not covered by funds made available under this subsection may be paid using other Federal funding sources, except that the total Federal share of the costs of the project may not exceed 90 percent.

**(B) Form**

The non-Federal share of the costs of a project may be provided in the form of cash, services, or other in-kind contributions.

**(5) Prioritization**

The State Forest Stewardship Coordinating Committee for a State, or equivalent State committee, shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

**(6) Watershed forester**

Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State watershed or best-management practice forester position to—

- (A) lead statewide programs; and
- (B) coordinate watershed-level projects.

**(e) Distribution**

**(1) In general**

Of the funds made available for a fiscal year under subsection (g) of this section, the Secretary shall use—

- (A) at least 75 percent of the funds to carry out the cost-share program under subsection (d) of this section; and
- (B) the remainder of the funds to deliver technical assistance, education, and planning, at the local level, through the State Forester or equivalent State official.

**(2) Special considerations**

Distribution of funds by the Secretary among States under paragraph (1) shall be made only after giving appropriate consideration to—

- (A) the acres of agricultural land, non-industrial private forest land, and highly erodible land in each State;
- (B) the miles of riparian buffer needed;
- (C) the miles of impaired stream segments and other impaired water bodies where forestry practices can be used to restore or protect water resources;
- (D) the number of owners of nonindustrial private forest land in each State; and
- (E) water quality cost savings that can be achieved through forest watershed management.

**(f) Willing owners**

**(1) In general**

Participation of an owner of nonindustrial private forest land in the watershed forestry

assistance program under this section is voluntary.

**(2) Written consent**

The watershed forestry assistance program shall not be carried out on nonindustrial private forest land without the written consent of the owner of, or entity having definitive decisionmaking over, the nonindustrial private forest land.

**(g) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2004 through 2008.

(Pub. L. 95-313, § 6, as added Pub. L. 108-148, title III, § 302, Dec. 3, 2003, 117 Stat. 1903; amended Pub. L. 110-234, title VII, § 7511(c)(35), May 22, 2008, 122 Stat. 1270; Pub. L. 110-246, § 4(a), title VII, § 7511(c)(35), June 18, 2008, 122 Stat. 1664, 2032.)

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.

PRIOR PROVISIONS

A prior section 2103b, Pub. L. 95-313, § 6, as added Pub. L. 101-624, title XII, § 1216, Nov. 28, 1990, 104 Stat. 3526, established the Stewardship Incentive Program, prior to repeal by Pub. L. 107-171, title VIII, § 8001(a), May 13, 2002, 116 Stat. 468.

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

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-246, § 7511(c)(35), substituted “the National Institute of Food and Agriculture, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or cooperative extension officials” for “the Cooperative State Research, Education, and Extension Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or Cooperative Extension officials”.

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, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(35) of Pub. L. 110-246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110-246, set out as a note under section 1522 of Title 7, Agriculture.

**§ 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 re-

sources, 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 affect 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, adminis-

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

tration, 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
- (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) 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.

**(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;
- (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.

(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; Pub. L. 108-108, title III, §336, Nov. 10, 2003, 117 Stat. 1313.)

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

- 2003—Subsec. (l)(3). Pub. L. 108-108 added par. (3).
- 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)”.

**§ 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 non-profit 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 450b of title 25.

**(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 title 26; and

(B) operates in accordance with 1 or more of the purposes specified in section 170(h)(4)(A) of title 26.

**(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,<sup>1</sup> to be owned in fee simple, that—

(A) are threatened by conversion to non-forest 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 Inter-agency 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.

<sup>1</sup> So in original. Probably should be “lands.”