

applies to an agency action under an authorized hazardous fuel reduction project, the court reviewing the project shall balance the impact to the ecosystem likely affected by the project of—

(A) the short- and long-term effects of undertaking the agency action; against

(B) the short- and long-term effects of not undertaking the agency action.

(Pub. L. 108–148, title I, §106, Dec. 3, 2003, 117 Stat. 1900.)

### § 6517. Effect of subchapter

#### (a) Other authority

Nothing in this subchapter affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority (including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to conduct a hazardous fuel reduction project on Federal land (including Federal land identified in section 6512(d) of this title) that is not conducted using the process authorized by section 6514 of this title.

#### (b) National Forest System

For projects and activities of the National Forest System other than authorized hazardous fuel reduction projects, nothing in this subchapter affects, or otherwise biases, the notice, comment, and appeal procedures for projects and activities of the National Forest System contained in part 215 of title 36, Code of Federal Regulations, or the consideration or disposition of any legal action brought with respect to the procedures.

(Pub. L. 108–148, title I, §107, Dec. 3, 2003, 117 Stat. 1900.)

#### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), 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.

### § 6518. Authorization of appropriations

There is authorized to be appropriated \$660,000,000 for each of fiscal years 2019 through 2023 to carry out—

(1) activities authorized by this subchapter; and

(2) other hazardous fuel reduction activities of the Secretary, including making grants to States, local governments, Indian tribes, and other eligible recipients for activities authorized by law.

(Pub. L. 108–148, title I, §108, Dec. 3, 2003, 117 Stat. 1901; Pub. L. 115–334, title VIII, §8402, Dec. 20, 2018, 132 Stat. 4841.)

#### AMENDMENTS

2018—Pub. L. 115–334 substituted “\$660,000,000 for each of fiscal years 2019 through 2023” for “\$760,000,000 for each fiscal year” in introductory provisions.

### SUBCHAPTER II—BIOMASS

#### § 6531. Repealed. Pub. L. 115–334, title VIII, § 8403(a), Dec. 20, 2018, 132 Stat. 4841

Section, Pub. L. 108–148, title II, § 203, Dec. 3, 2003, 117 Stat. 1902, related to biomass commercial utilization grant program.

### SUBCHAPTER III—WATERSHED FORESTRY ASSISTANCE

#### § 6541. Omitted

#### CODIFICATION

Section, Pub. L. 108–148, title III, § 301, Dec. 3, 2003, 117 Stat. 1902, which provided congressional findings and purposes of title III of Pub. L. 108–148 (enacting this subchapter and section 2103b of this title), was omitted in view of the repeal of sections 2103b and 6542 of this title.

### § 6542. Water Source Protection Program

#### (a) Definitions

In this section:

##### (1) End water user

The term “end water user” means a non-Federal entity, including—

- (A) a State;
- (B) a political subdivision of a State;
- (C) an Indian tribe;
- (D) a utility;
- (E) a municipal water system;
- (F) an irrigation district;
- (G) a nonprofit organization; and
- (H) a corporation.

##### (2) Forest management activity

The term “forest management activity” means a project carried out by the Secretary on National Forest System land.

##### (3) Forest plan

The term “forest plan” means a land management plan prepared by the Forest Service for a unit of the National Forest System pursuant to section 1604 of this title.

##### (4) Non-Federal partner

The term “non-Federal partner” means an end water user with whom the Secretary has entered into a partnership agreement under subsection (c)(1).

##### (5) Program

The term “Program” means the Water Source Protection Program established under subsection (b).

##### (6) Secretary

The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

##### (7) Water source management plan

The term “water source management plan” means the water source management plan developed under subsection (d)(1).

#### (b) Establishment

The Secretary shall establish and maintain a program, to be known as the “Water Source Protection Program”, to carry out watershed protection and restoration projects on National Forest System land.

**(c) Water source investment partnerships****(1) In general**

In carrying out the Program, the Secretary may enter into water source investment partnership agreements with end water users to protect and restore the condition of National Forest watersheds that provide water to the end water users.

**(2) Form**

A partnership agreement described in paragraph (1) may take the form of—

- (A) a memorandum of understanding;
- (B) a cost-share or collection agreement;
- (C) a long-term funding matching commitment; or
- (D) another appropriate instrument, as determined by the Secretary.

**(d) Water source management plan****(1) In general**

In carrying out the Program, the Secretary, in cooperation with the non-Federal partners and applicable State, local, and Tribal governments, may develop a water source management plan that describes the proposed implementation of watershed protection and restoration projects under the Program.

**(2) Requirement**

A water source management plan shall be conducted in a manner consistent with the forest plan applicable to the National Forest System land on which the watershed protection and restoration project is carried out.

**(3) Environmental analysis**

The Secretary may conduct a single environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

- (A) for each watershed protection and restoration project included in the water source management plan; or
- (B) as part of the development of, or after the finalization of, the water source management plan.

**(e) Forest management activities****(1) In general**

To the extent that forest management activities are necessary to protect, maintain, or enhance water quality, and in accordance with paragraph (2), the Secretary shall carry out forest management activities as part of watershed protection and restoration projects carried out on National Forest System land, with the primary purpose of—

- (A) protecting a municipal water supply system;
- (B) restoring forest health from insect infestations and disease; or
- (C) any combination of the purposes described in subparagraphs (A) and (B).

**(2) Compliance**

The Secretary shall carry out forest management activities under paragraph (1) in accordance with—

- (A) this chapter;
- (B) the applicable water source management plan;

- (C) the applicable forest plan; and
- (D) other applicable laws.

**(f) Endangered Species Act of 1973**

In carrying out the Program, the Secretary may use the Manual on Adaptive Management of the Department of the Interior, including any associated guidance, to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

**(g) Funds and services****(1) In general**

In carrying out the Program, the Secretary may accept and use funding, services, and other forms of investment and assistance from non-Federal partners to implement the water source management plan.

**(2) Matching funds required**

The Secretary shall require the contribution of funds or in-kind support from non-Federal partners to be in an amount that is at least equal to the amount of Federal funds.

**(3) Manner of use**

The Secretary may accept and use investments described in paragraph (1) directly or indirectly through the National Forest Foundation.

**(4) Water source protection fund****(A) In general**

Subject to the availability of appropriations, the Secretary may establish a Water Source Protection Fund to match funds or in-kind support contributed by non-Federal partners under paragraph (1).

**(B) Use of appropriated funds**

There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2019 through 2023.

**(C) Partnership agreements**

The Secretary may make multiyear commitments, if necessary, to implement 1 or more partnership agreements under subsection (c).

(Pub. L. 108–148, title III, § 303, as added Pub. L. 115–334, title VIII, § 8404(a), Dec. 20, 2018, 132 Stat. 4841.)

## REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, 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.

This chapter, referred to in subsec. (e)(2)(A), was in the original “this Act”, meaning Pub. L. 108–148, Dec. 3, 2003, 117 Stat. 1887, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Endangered Species Act of 1973, referred to in subsec. (f), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

## PRIOR PROVISIONS

A prior section 6542, Pub. L. 108–148, title III, § 303, Dec. 3, 2003, 117 Stat. 1905, provided for tribal watershed

forestry assistance and the development of water quality and watershed forestry programs, prior to repeal by Pub. L. 113-79, title VIII, §8005, Feb. 7, 2014, 128 Stat. 913.

### § 6543. Watershed Condition Framework

#### (a) In general

The Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the “Secretary”), may establish and maintain a Watershed Condition Framework for National Forest System land—

(1) to evaluate and classify the condition of watersheds, taking into consideration—

- (A) water quality and quantity;
- (B) aquatic habitat and biota;
- (C) riparian and wetland vegetation;
- (D) the presence of roads and trails;
- (E) soil type and condition;
- (F) groundwater-dependent ecosystems;
- (G) relevant terrestrial indicators, such as fire regime, risk of catastrophic fire, forest and rangeland vegetation, invasive species, and insects and disease; and

(H) other significant factors, as determined by the Secretary;

(2) to identify for protection and restoration up to 5 priority watersheds in each National Forest, and up to 2 priority watersheds in each national grassland, taking into consideration the impact of the condition of the watershed condition on—

- (A) wildfire behavior;
- (B) flood risk;
- (C) fish and wildlife;
- (D) drinking water supplies;
- (E) irrigation water supplies;
- (F) forest-dependent communities; and
- (G) other significant impacts, as determined by the Secretary;

(3) to develop a watershed protection and restoration action plan for each priority watershed that—

(A) takes into account existing restoration activities being implemented in the watershed; and

(B) includes, at a minimum—

- (i) the major stressors responsible for the impaired condition of the watershed;
- (ii) a set of essential projects that, once completed, will address the identified stressors and improve watershed conditions;
- (iii) a proposed implementation schedule;
- (iv) potential partners and funding sources; and
- (v) a monitoring and evaluation program;

(4) to prioritize protection and restoration activities for each watershed restoration action plan;

(5) to implement each watershed protection and restoration action plan; and

(6) to monitor the effectiveness of protection and restoration actions and indicators of watershed health.

#### (b) Coordination

In carrying out subsection (a), the Secretary shall—

(1) coordinate with interested non-Federal landowners and State, Tribal, and local governments within the relevant watershed; and

(2) provide for an active and ongoing public engagement process.

#### (c) Emergency designation

Notwithstanding paragraph (2) of subsection (a), the Secretary may identify a watershed as a priority for rehabilitation in the Watershed Condition Framework without using the process described in that subsection if a Forest Supervisor determines that—

(1) a wildfire has significantly diminished the condition of the watershed; and

(2) the emergency stabilization activities of the Burned Area Emergency Response Team are insufficient to return the watershed to proper function.

(Pub. L. 108-148, title III, §304, as added Pub. L. 115-334, title VIII, §8405(a), Dec. 20, 2018, 132 Stat. 4843.)

### 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