

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), 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.)

**Editorial Notes**

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 5304 of title 25.

**(3) Local governmental entity**

The term “local governmental entity” includes any municipal government, county gov-

ernment, 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 land-owners; 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.

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

**(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.

**(2) Reimbursement of funds**

An eligible entity that sells or converts to nonforest use a parcel acquired under the Program shall pay to the Federal Government an amount equal to the greater of the current sale price, or current appraised value, of the parcel.

**(3) Loss of eligibility**

An eligible entity that sells or converts a parcel acquired under the Program shall not be eligible for additional grants under the Program.

**(f) State administration and technical assistance**

The Secretary may allocate not more than 10 percent of all funds made available to carry out

the Program for each fiscal year to State foresters or equivalent officials (including equivalent officials of Indian tribes) for Program administration and technical assistance.

**(g) Authorization of appropriations**

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

(Pub. L. 95-313, §7A, as added Pub. L. 110-234, title VIII, §8003(b), May 22, 2008, 122 Stat. 1281, and Pub. L. 110-246, §4(a), title VIII, §8003(b), June 18, 2008, 122 Stat. 1664, 2043.)

**Editorial Notes**

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Enactment 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 a note under section 8701 of Title 7, Agriculture.

FINDINGS

Pub. L. 110-234, title VIII, §8003(a), May 22, 2008, 122 Stat. 1281, and Pub. L. 110-246, §4(a), title VIII, §8003(a), June 18, 2008, 122 Stat. 1664, 2043, provided that: “Congress finds that—

“(1) the Forest Service projects that, by calendar year 2030, approximately 44,000,000 acres of privately-owned forest land will be developed throughout the United States;

“(2) public access to parcels of privately-owned forest land for outdoor recreational activities, including hunting, fishing, and trapping, has declined and, as a result, participation in those activities has also declined in cases in which public access is not secured;

“(3) rising rates of obesity and other public health problems relating to the inactivity of the citizens of the United States have been shown to be ameliorated by improving public access to safe and attractive areas for outdoor recreation;

“(4) in rapidly-growing communities of all sizes throughout the United States, remaining parcels of forest land play an essential role in protecting public water supplies;

“(5) forest parcels owned by local governmental entities and nonprofit organizations are providing important demonstration sites for private landowners to learn forest management techniques;

“(6) throughout the United States, communities of diverse types and sizes are deriving significant financial and community benefits from managing forest land owned by local governmental entities for timber and other forest products; and

“(7) there is an urgent need for local governmental entities to be able to leverage financial resources in order to purchase important parcels of privately-owned forest land as the parcels are offered for sale.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

**§ 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) 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 affecting forests and trees on land not controlled or administered by the Secretary shall not be conducted without the consent, cooperation, and participation of the entity having ownership of or jurisdiction over the affected land.