

ant to the categorical exclusion established under subsection (b) are—

- (A) mowing or masticating;
- (B) thinning by manual and mechanical cutting;
- (C) piling, yarding, and removal of slash or hazardous fuels;
- (D) selling of vegetation products, including timber, firewood, biomass, slash, and fenceposts;
- (E) targeted grazing;
- (F) application of—
 - (i) pesticide;
 - (ii) biopesticide; or
 - (iii) herbicide;
- (G) seeding of native species;
- (H) controlled burns and broadcast burning; and
- (I) burning of piles, including jackpot piles.

(3) Excluded activities

A forest management activity described in paragraph (2) may not be carried out pursuant to the categorical exclusion established under subsection (b) if the activity is conducted—

- (A) in a component of the National Wilderness Preservation System;
- (B) on Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress, Presidential proclamation (including the applicable implementation plan), or regulation;
- (C) in a wilderness study area; or
- (D) in an area in which carrying out the activity would be inconsistent with the applicable land management plan or resource management plan.

(4) Extraordinary circumstances

The Secretary concerned shall apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or a successor regulation), in determining whether to use a categorical exclusion under subsection (b).

(d) Acreage and location limitations

Treatments of vegetation in linear fuel breaks covered by the categorical exclusion established under subsection (b)—

- (1) may not contain treatment units in excess of 3,000 acres;
- (2) shall be located primarily in—
 - (A) the wildland-urban interface or a public drinking water source area;
 - (B) if located outside the wildland-urban interface or a public drinking water source area, an area within Condition Class 2 or 3 in Fire Regime Group I, II, or III that contains very high wildfire hazard potential; or
 - (C) an insect or disease area designated by the Secretary concerned as of November 15, 2021; and
- (3) shall consider the best available scientific information.

(e) Roads

(1) Permanent roads

A project under this section shall not include the establishment of permanent roads.

(2) Existing roads

The Secretary concerned may carry out necessary maintenance and repairs on existing permanent roads for the purposes of this section.

(3) Temporary roads

The Secretary concerned shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed.

(f) Public collaboration

To encourage meaningful public participation during the preparation of a project under this section, the Secretary concerned shall facilitate, during the preparation of each project—

- (1) collaboration among State and local governments and Indian Tribes; and
- (2) participation of interested persons.

(Pub. L. 117–58, div. D, title VIII, § 40806, Nov. 15, 2021, 135 Stat. 1110.)

Editorial Notes

REFERENCES IN TEXT

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

CODIFICATION

Section was enacted as part of the Infrastructure Investment and Jobs Act, and not as part of the Healthy Forests Restoration Act of 2003 which comprises this chapter.

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

DEFINITIONS

For definition of “Indian Tribe” as used in this section, see section 5304 of Title 25, Indians, as made applicable by section 18701(2) of Title 42, The Public Health and Welfare.

§ 6592c. Emergency actions

(a) Definitions

In this section:

(1) Authorized emergency action

The term “authorized emergency action” means an action carried out pursuant to an emergency situation determination issued under this section to mitigate the harm to life, property, or important natural or cultural resources on National Forest System land or adjacent land.

(2) Emergency situation

The term “emergency situation” means a situation on National Forest System land for

which immediate implementation of 1 or more authorized emergency actions is necessary to achieve 1 or more of the following results:

(A) Relief from hazards threatening human health and safety.

(B) Mitigation of threats to natural resources on National Forest System land or adjacent land.

(3) Emergency situation determination

The term “emergency situation determination” means a determination made by the Secretary under subsection (b)(1)(A).

(4) Land and resource management plan

The term “land and resource management plan” means a plan developed under section 1604 of this title.

(5) National Forest System land

The term “National Forest System land” means land of the National Forest System (as defined in section 1609(a) of this title).

(6) Secretary

The term “Secretary” means the Secretary of Agriculture.

(b) Authorized emergency actions to respond to emergency situations

(1) Determination

(A) In general

The Secretary may make a determination that an emergency situation exists with respect to National Forest System land.

(B) Review

An emergency situation determination shall not be subject to objection under the predecisional administrative review processes under part 218 of title 36, Code of Federal Regulations (or successor regulations).

(C) Basis of determination

An emergency situation determination shall be based on an examination of the relevant information.

(2) Authorized emergency actions

After making an emergency situation determination with respect to National Forest System land, the Secretary may carry out authorized emergency actions on that National Forest System land in order to achieve reliefs from hazards threatening human health and safety or mitigation of threats to natural resources on National Forest System land or adjacent land, including through—

(A) the salvage of dead or dying trees;

(B) the harvest of trees damaged by wind or ice;

(C) the commercial and noncommercial sanitation harvest of trees to control insects or disease, including trees already infested with insects or disease;

(D) the reforestation or replanting of fire-impacted areas through planting, control of competing vegetation, or other activities that enhance natural regeneration and restore forest species;

(E) the removal of hazardous trees in close proximity to roads and trails;

(F) the removal of hazardous fuels;

(G) the restoration of water sources or infrastructure;

(H) the reconstruction of existing utility lines; and

(I) the replacement of underground cables.

(3) Relation to land and resource management plans

Any authorized emergency action carried out under paragraph (2) on National Forest System land shall be conducted consistent with the applicable land and resource management plan.

(c) Environmental analysis

(1) Environmental assessment or environmental impact statement

If the Secretary determines that an authorized emergency action requires an environmental assessment or an environmental impact statement pursuant to section 4332(2) of title 42, the Secretary shall study, develop, and describe—

(A) the proposed agency action, taking into account the probable environmental consequences of the authorized emergency action and mitigating foreseeable adverse environmental effects, to the extent practicable; and

(B) the alternative of no action.

(2) Public notice

The Secretary shall provide notice of each authorized emergency action that the Secretary determines requires an environmental assessment or environmental impact statement under paragraph (1), in accordance with applicable regulations and administrative guidelines.

(3) Public comment

The Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement under paragraph (1).

(4) Savings clause

Nothing in this subsection prohibits the Secretary from—

(A) making an emergency situation determination, including a determination that an emergency exists pursuant to section 218.21(a) of title 36, Code of Federal Regulations (or successor regulations); or

(B) taking an emergency action under section 220.4(b) of title 36, Code of Federal Regulations (or successor regulations).

(d) Administrative review of authorized emergency actions

An authorized emergency action carried out under this section shall not be subject to objection under the predecisional administrative review processes established under section 6515 of this title and section 428 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112-74).

(e) Judicial review of emergency actions

A court shall not enjoin an authorized emergency action under this section if the court determines that the plaintiff is unable to dem-

onstrate that the claim of the plaintiff is likely to succeed on the merits.

(f) Notification and guidance

The Secretary shall provide notification and guidance to each local field office of the Forest Service to ensure awareness of, compliance with, and appropriate use of the authorized emergency action authority under this section.

(Pub. L. 117-58, div. D, title VIII, §40807, Nov. 15, 2021, 135 Stat. 1112.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Infrastructure Investment and Jobs Act, and not as part of the Healthy Forests Restoration Act of 2003 which comprises this chapter.

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

§ 6592d. Joint Chiefs Landscape Restoration Partnership program

(a) Definitions

In this section:

(1) Chiefs

The term “Chiefs” means the Chief of the Forest Service and the Chief of the Natural Resources Conservation Service.

(2) Eligible activity

The term “eligible activity” means an activity—

- (A) to reduce the risk of wildfire;
- (B) to protect water quality and supply; or
- (C) to improve wildlife habitat for at-risk species.

(3) Program

The term “Program” means the Joint Chiefs Landscape Restoration Partnership program established under subsection (b)(1).

(4) Secretary

The term “Secretary” means the Secretary of Agriculture.

(5) Wildland-urban interface

The term “wildland-urban interface” has the meaning given the term in section 6511 of this title.

(b) Establishment

(1) In general

The Secretary shall establish a Joint Chiefs Landscape Restoration Partnership program to improve the health and resilience of forest landscapes across National Forest System land and State, Tribal, and private land.

(2) Administration

The Secretary shall administer the Program by coordinating eligible activities conducted

on National Forest System land and State, Tribal, or private land across a forest landscape to improve the health and resilience of the forest landscape by—

(A) assisting producers and landowners in implementing eligible activities on eligible private or Tribal land using the applicable programs and authorities administered by the Chief of the Natural Resources Conservation Service under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), not including the conservation reserve program established under subchapter B of chapter 1 of subtitle D of that title (16 U.S.C. 3831 et seq.); and

(B) conducting eligible activities on National Forest System land or assisting landowners in implementing eligible activities on State, Tribal, or private land using the applicable programs and authorities administered by the Chief of the Forest Service.

(c) Selection of eligible activities

The appropriate Regional Forester and State Conservationist shall jointly submit to the Chiefs on an annual basis proposals for eligible activities under the Program.

(d) Evaluation criteria

In evaluating and selecting proposals submitted under subsection (c), the Chiefs shall consider—

(1) criteria including whether the proposal—

(A) reduces wildfire risk in a municipal watershed or the wildland-urban interface;

(B) was developed through a collaborative process with participation from diverse stakeholders;

(C) increases forest workforce capacity or forest business infrastructure and development;

(D) leverages existing authorities and non-Federal funding;

(E) provides measurable outcomes; or

(F) supports established State and regional priorities; and

(2) such other criteria relating to the merits of the proposals as the Chiefs determine to be appropriate.

(e) Outreach

The Secretary shall provide—

(1) public notice on the websites of the Forest Service and the Natural Resources Conservation Service describing—

(A) the solicitation of proposals under subsection (c); and

(B) the criteria for selecting proposals in accordance with subsection (d); and

(2) information relating to the Program and activities funded under the Program to States, Indian Tribes, units of local government, and private landowners.

(f) Exclusions

An eligible activity may not be carried out under the Program—

(1) in a wilderness area or designated wilderness study area;

(2) in an inventoried roadless area;

(3) on any Federal land on which, by Act of Congress or Presidential proclamation, the re-