

**TITLE 16 - CONSERVATION**  
**CHAPTER 41 - COOPERATIVE FORESTRY ASSISTANCE**

**§ 2103. Forest land enhancement program**

**(a) Establishment**

**(1) In general**

The Secretary of Agriculture shall establish a forest land enhancement program—

**(A)** to provide financial assistance to State foresters; and

**(B)** to encourage the long-term sustainability of nonindustrial private forest lands in the United States by assisting the owners of nonindustrial private forest lands, through State foresters, in more actively managing the nonindustrial private forest lands and related resources of those owners through the use of State, Federal, and private sector resource management expertise, financial assistance, and educational programs.

**(2) Coordination and consultation**

The Secretary, acting through State foresters, shall implement the program—

**(A)** in coordination with the State Forest Stewardship Coordinating Committees; and

**(B)** in consultation with other Federal, State, and local natural resource management agencies, institutions of higher education, and a broad range of private sector interests.

**(b) Program objectives**

In implementing the program, the Secretary shall target resources to achieve the following objectives:

**(1)** Investing in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of the nonindustrial private forest lands in the United States for timber, habitat for flora and fauna, soil, water, and air quality, wetlands, and riparian buffers.

**(2)** Ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest resources and provide environmental benefits.

**(3)** Reducing the risks and helping restore, recover, and mitigate the damage to forests caused by fire, insects, invasive species, disease, and damaging weather.

**(4)** Increasing and enhancing carbon sequestration opportunities.

**(5)** Enhancing implementation of agroforestry practices.

**(6)** Maintaining and enhancing the forest landbase and leverage State and local financial and technical assistance to owners that promote the same conservation and environmental values.

**(7)** Preserving the aesthetic quality of nonindustrial private forest lands and providing opportunities for outdoor recreation.

**(c) State priority plan**

**(1) Development**

The State Forester and State Forest Stewardship Coordinating Committee of a State shall jointly develop and submit to the Secretary a State priority plan that is intended to promote forest management objectives in that State.

**(2) Report**

Not later than September 30, 2006, each State that implemented a State priority plan shall submit to the Secretary a report describing the status of all activities and practices funded under the program as of that date.

**(d) Owner eligibility for assistance**

**(1) Eligibility criteria**

To be eligible for cost-share assistance under the program, an owner of nonindustrial private forest lands shall agree—

(A) to develop and implement, in cooperation with a State forester, another State official, or a professional resources manager, a management plan that—

- (i) except as provided in paragraph (2) or (3), provides for the treatment of not more than 1,000 acres of nonindustrial private forest lands;
- (ii) is approved by the State forester; and
- (iii) addresses site specific activities and practices; and

(B) to implement approved activities and practices in a manner consistent with the management plan for a period of not less than 10 years, unless the State forester approves a modification to the plan.

**(2) Public benefit exception**

The Secretary may increase the acreage limitation specified in paragraph (1)(A)(i) to not more than 5,000 acres for an owner of nonindustrial private forest lands if the Secretary, in consultation with the State forester, determines that significant public benefits will accrue as a result of the provision of cost-share assistance under the program for the treatment of the additional acreage.

**(3) Plan development exception**

An owner may receive cost-share assistance under the program for the purpose of developing a management plan under subsection (e) of this section that provides for the treatment of acreage in excess of the acreage limitations specified in paragraphs (1)(A)(i) and (2), except that the owner's eligibility for cost-share assistance to implement approved activities and practices under the management plan remains subject to the acreage limitation specified in paragraph (1)(A)(i) or, if the Secretary makes the determination described in paragraph (2), the acreage limitation specified in that paragraph.

**(e) Management plan****(1) Submission and content**

An owner of nonindustrial private forest lands that seeks to participate in the program shall submit to the State forester of the State in which the lands are located a management plan that—

- (A) identifies and describes projects and activities to be carried out by the owner to protect or enhance soil, water, air, range and aesthetic quality, recreation, timber, water, wetland, or fish and wildlife resources on the lands in a manner that is compatible with the objectives of the owner;
- (B) addresses any criteria established by the State and the applicable Committee; and
- (C) meets the other requirements of this section.

**(2) Lands covered**

At a minimum, the management plan shall apply to those portions of the nonindustrial private forest lands of the owner on which any project or activity funded under the program will be carried out. In a case in which a project or activity may affect acreage outside the portion of the land on which the project or activity is carried out, the management plan shall apply to all lands of the owner that are in forest cover and may be affected by the project or activity.

**(f) Approved activities****(1) State list**

The Secretary shall develop for each State a list of approved forest activities and practices eligible for cost-share assistance that meets the purposes of the program. The Secretary shall develop the list for a State in consultation with the State forester and the Committee for that State.

**(2) Types of activities**

Approved activities and practices under paragraph (1) may consist of activities and practices for the following purposes:

- (A) The establishment, management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes.
- (B) The sustainable growth and management of forests for timber production.
- (C) The restoration, use, and enhancement of forest wetland and riparian areas.
- (D) The protection of water quality and watersheds through—
  - (i) the planting of trees in riparian areas; and
  - (ii) the enhanced management and maintenance of native vegetation on land vital to water quality.
- (E) The management, maintenance, restoration, or development of habitat for plants, fish, and wildlife.
- (F) The control, detection, monitoring, and prevention of the spread of invasive species and pests on nonindustrial private forest lands.
- (G) The restoration of nonindustrial private forest land affected by invasive species and pests.
- (H) The conduct of other management activities, such as the reduction of hazardous fuels, that reduce the risks to forests posed by, and that restore, recover, and mitigate the damage to forests caused by, fire or any other catastrophic event, as determined by the Secretary.
- (I) The development of management plans;
- (J) The conduct of energy conservation and carbon sequestration activities.
- (K) The conduct of other activities approved by the Secretary, in consultation with the State forester and the appropriate Committees.

**(g) Reimbursement of eligible activities****(1) In general**

In the case of an eligible owner that has an approved management plan, the Secretary shall share the cost of implementing the approved activities and practices that the Secretary determines are appropriate.

**(2) Rate**

The Secretary shall determine the appropriate reimbursement rate for cost-share payments under paragraph (1) and the schedule for making those payments.

**(3) Maximum cost share**

The Secretary shall not make cost-share payments under this subsection to an owner in an amount in excess of 75 percent, or a lower percentage as determined by the State forester, of the total cost to the owner to implement the approved activities and practices under the management plan.

**(4) Aggregate payment limit**

The Secretary shall determine the maximum aggregate amount of cost-share payments that an owner may receive under the program.

**(5) Consultation**

The Secretary shall make determinations under this subsection in consultation with the State forester.

**(h) Recapture****(1) In general**

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

The Secretary shall establish and implement a mechanism to recapture payments made to an owner in the event that the owner fails to implement an approved activity or practice specified in the management plan for which the owner received cost-share payments.

**(2) Additional remedy**

The remedy provided in paragraph (1) is in addition to any other remedy available to the Secretary.

**(i) Distribution of cost-share funds**

The Secretary, acting through the State foresters, shall distribute funds available for cost sharing under the program only after giving appropriate consideration to the following factors:

- (1) The public benefits that would result from the distribution.
- (2) The total acreage of nonindustrial private forest lands in each State.
- (3) The potential productivity of those lands, as determined by the Secretary.
- (4) The number of owners eligible for cost sharing in each State.
- (5) The opportunities to enhance nontimber resources on those lands, including—
  - (A) the protection of riparian buffers and forest wetland;
  - (B) the preservation of fish and wildlife habitat;
  - (C) the enhancement of soil, air, and water quality; and
  - (D) the preservation of aesthetic quality and opportunities for outdoor recreation.
- (6) The anticipated demand for timber and nontimber resources in each State.
- (7) The need to improve forest health to minimize the damaging effects of catastrophic fire, insects, disease, or weather.
- (8) The need and demand for agroforestry practices in each State.
- (9) The need to maintain and enhance the forest landbase.
- (10) The need for afforestation, reforestation, and timber stand improvement.

**(j) Availability of funds**

The Secretary shall use \$100,000,000 of funds of the Commodity Credit Corporation to carry out the Program during the period beginning on May 13, 2002, and ending on September 30, 2007.

**(k) Definitions**

In this section:

**(1) Nonindustrial private forest lands**

The term “nonindustrial private forest lands” means rural lands, as determined by the Secretary, that—

- (A) have existing tree cover or are suitable for growing trees; and
- (B) are owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation, tribe, or entity has definitive decision-making authority over the lands.

**(2) Committee**

The terms “State Forest Stewardship Coordinating Committee” and “Committee” means<sup>1</sup> a State Forest Stewardship Coordinating Committee established under section 2113 (b) of this title.

**(3) Indian tribe**

The term “Indian tribe” has the meaning given the term in section 450b of title 25.

**(4) Owner**

The term “owner” means an owner of nonindustrial private forest land.

**(5) Program**

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

The term “program” means the forest land enhancement program established by this section.

**(6) Secretary**

The term “Secretary” means the Secretary of Agriculture.

**(7) State forester**

The term “State forester” means the director or other head of a State Forestry Agency or equivalent State official.

**Footnotes**

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

(Pub. L. 95–313, § 4, as added Pub. L. 107–171, title VIII, § 8002(b), May 13, 2002, 116 Stat. 468.)

**Prior Provisions**

A prior section 2103, Pub. L. 95–313, § 4, July 1, 1978, 92 Stat. 367; Pub. L. 101–624, title XII, §§ 1214, 1224 (1), Nov. 28, 1990, 104 Stat. 3525, 3542; Pub. L. 104–127, title III, §§ 336(a)(2)(B), 373, Apr. 4, 1996, 110 Stat. 1005, 1015, related to forestry incentives program, prior to repeal by Pub. L. 107–171, title VIII, § 8001(a), May 13, 2002, 116 Stat. 468.

**Use of Remaining Funds**

Pub. L. 107–171, title VIII, § 8001(b), May 13, 2002, 116 Stat. 468, provided that: “Notwithstanding the amendment made by subsection (a) [repealing former sections 2103 and 2103b of this title], the Secretary of Agriculture may use funds appropriated for fiscal year 2002 for the forestry incentives program or the stewardship incentive program, but not expended before the date of enactment of this Act [May 13, 2002], to carry out sections 4 and 6 of the Cooperative Forestry Assistance Act of 1978 [former sections 2103 and 2103b of this title], as in effect on the date before the date of enactment of this Act.”

**Purposes of Forest Land Enhancement Program**

Pub. L. 107–171, title VIII, § 8002(a), May 13, 2002, 116 Stat. 468, provided that: “The purposes of this section [enacting this section and amending section 6962 of Title 7, Agriculture] are—

“(1) to strengthen the commitment of the Secretary of Agriculture to sustainable forest management to enhance the productivity of timber, fish and wildlife habitat, soil and water quality, wetland, recreational resources, and aesthetic values of forest land; and

“(2) to establish a coordinated and cooperative Federal, State, and local sustainable forestry program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest land.”