

**TITLE 16 - CONSERVATION**  
**CHAPTER 41 - COOPERATIVE FORESTRY ASSISTANCE****§ 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) of this section 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.

**(d) Contribution by entity**

No money appropriated to implement this section shall be expended to prevent, retard, control, or suppress insects or diseases affecting trees on non-Federal land until the entity having ownership of or jurisdiction over the affected land contributes, or agrees to contribute, to the work to be done in the amount and in the manner determined appropriate by the Secretary.

**(e) Allotments to other agencies**

The Secretary may, in the Secretary's discretion, and out of any money appropriated to implement this section, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in the amounts the Secretary determines necessary to prevent, retard, control, or suppress insect infestations and disease epidemics affecting trees on those lands.

**(f) Limitation on use of appropriations**

**(1) Removing dead trees**

No amounts appropriated shall be used to—

(A) pay the cost of felling and removing dead or dying trees unless the Secretary determines that such actions are necessary to prevent the spread of a major insect infestation or disease epidemic severely affecting trees; or

(B) compensate for the value of any property injured, damaged, or destroyed by any cause.

**(2) Insects and diseases affecting trees**

The Secretary may procure materials and equipment necessary to prevent, retard, control, or suppress insects and diseases affecting trees without regard to section 5 of title 41, under whatever procedures the Secretary may prescribe, if the Secretary determines that such action is necessary and in the public interest.

**(g) Partnerships**

The Secretary, by contract or cooperative agreement, may provide financial assistance through the Forest Service to State foresters or equivalent State officials, and private forestry and other organizations, to monitor forest health and protect the forest lands of the United States. The Secretary shall require contribution by the non-Federal entity in the amount and in the manner determined appropriate. Such non-Federal share may be in the form of cash, services, or equipment, as determined appropriate by the Secretary.

**(h) Authorization of appropriations**

There are authorized to be appropriated annually such sums as may be necessary to carry out subsections (a) through (g) of this section.

**(i) Integrated pest management**

**(1) In general**

Subject to the provisions of subsections (c) and (e) of this section, the Secretary shall, in cooperation with State foresters or equivalent State officials, subdivisions of States, or other entities on non-Federal lands (hereafter in this subsection referred to as the "cooperator")—

(A) provide cost-share assistance to such cooperators who have established an acceptable integrated pest management strategy, as determined by the Secretary, that will prevent, retard, control, or suppress gypsy moth, southern pine beetle, spruce budworm infestations, or other major insect infestations in an amount no less than 50 percent nor greater than 75 percent of the cost of implementing such strategy; and

(B) upon request, assist the cooperator in the development of such integrated pest management strategy.

**(2) Authorization of appropriations**

There are hereby authorized to be appropriated annually \$10,000,000 to implement this subsection.

(Pub. L. 95–313, § 8, formerly § 5, July 1, 1978, 92 Stat. 368; renumbered § 8 and amended Pub. L. 101–624, title XII, §§ 1215(1), 1218, Nov. 28, 1990, 104 Stat. 3525, 3531.)

## Prior Provisions

A prior section 8 of Pub. L. 95–313 was renumbered section 11 and is classified to section 2107 of this title.

## Amendments

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to insect and disease control on Federal and non-Federal forest lands, additional protective functions and responsibilities concerning such lands, consent, cooperation, and participation of, and contribution by, entity having jurisdiction over such lands, allocations to Federal agencies having jurisdiction over such lands, availability and limitations on use of appropriated amounts, and authorization of appropriations.

## Stewardship End Result Contracting Projects

Pub. L. 107–63, title III, § 332, Nov. 5, 2001, 115 Stat. 471, provided in part that: “The authority to enter into stewardship and end result contracts provided to the Forest Service in accordance with section 347 of title III of section 101(e) of division A of Public Law 105–277 [set out as a note below] is hereby expanded to authorize the Forest Service to enter into an additional 28 contracts subject to the same terms and conditions as provided in that section: Provided, That of the additional contracts authorized by this section at least 9 shall be allocated to Region 1 and at least 3 to Region 6.”

Similar provisions were contained in Pub. L. 106–291, title III, § 338, Oct. 11, 2000, 114 Stat. 998, as amended by Pub. L. 107–20, title II, § 2604, July 24, 2001, 115 Stat. 178.

Pub. L. 105–277, div. A, § 101(e) [title III, § 347], Oct. 21, 1998, 112 Stat. 2681–231, 2681–298, as amended by Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 341], Nov. 29, 1999, 113 Stat. 1535, 1501A–201; Pub. L. 107–63, title III, § 332, Nov. 5, 2001, 115 Stat. 471; Pub. L. 108–7, div. F, title III, § 323, Feb. 20, 2003, 117 Stat. 275, provided that:

“(a) In General.—Until September 30, 2013, the Forest Service and the Bureau of Land Management, via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.

“(b) Land Management Goals.—The land management goals of a project under subsection (a) may include, among other things—

“(1) road and trail maintenance or obliteration to restore or maintain water quality;

“(2) soil productivity, habitat for wildlife and fisheries, or other resource values;

“(3) setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat;

“(4) removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives;

“(5) watershed restoration and maintenance;

“(6) restoration and maintenance of wildlife and fish habitat; and

“(7) control of noxious and exotic weeds and reestablishing native plant species.

“(c) Agreements or Contracts.—

“(1) Procurement procedure.—A source for performance of an agreement or contract under subsection (a) shall be selected on a best-value basis, including consideration of source under other public and private agreements or contracts.

“(2) Term.—A multiyear contract may be entered into under subsection (a) in accordance with section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c), except that the period of the contract may exceed 5 years but may not exceed 10 years.

“(3) Offsets.—

“(A) In general.—In connection with agreement or contracts under subsection (a), the Forest Service and the Bureau of Land Management may apply the value of timber or other forest products removed as an offset against the cost of services received.

“(B) Methods of appraisal.—The value of timber or other forest products used as offsets under subparagraph (A)—

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

“(i) shall be determined using appropriate methods of appraisal commensurate with the quantity of products to be removed;

“(ii) may be determined using a unit of measure appropriate to the agreement or contracts; and

“(iii) may include valuing products on a per-acre basis.

“(4) Relation to other laws.—The Forest Service may enter into agreement or contracts under subsection (a), notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

“(5) Contracting officer.—Notwithstanding any other provision of law, the Secretary of Agriculture or the Secretary of the Interior may determine the appropriate contracting officer to enter into and administer an agreement or contract under subsection (a).

“(d) Receipts.—

“(1) In general.—The Forest Service and the Bureau of Land Management may collect monies from an agreement or contract under subsection (a) so long as such collection is a secondary objective of negotiating contracts that will best achieve the purposes of this section.

“(2) Use.—Monies from an agreement or contract under subsection (a) may be retained by the Forest Service and the Bureau of Land Management and shall be available for expenditure without further appropriation at the project site from which the monies are collected or at another project site.

“(3) Relation to other laws.—The value of services received by the Forest Service or the Bureau of Land Management under a stewardship contract project conducted under this section, and any payments made or resources provided by the contractor or the Forest Service or the Bureau of Land Management under such a project, shall not be considered to be monies received from the National Forest System or the public lands under any provision of law. The Act of June 9, 1930 (16 U.S.C. 576 et seq.; commonly known as the Knutson-Vandenberg Act), shall not apply to stewardship contracts entered into under this section.

“(e) Costs of Removal.—The Forest Service may collect deposits from contractors covering the costs of removal of timber or other forest products pursuant to the Act of August 11, 1916 (39 Stat. 462, chapter 313; 16 U.S.C. 490); and the next to the last paragraph under the heading ‘Forest Service.’ under the heading ‘Department of Agriculture’ in the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498); notwithstanding the fact that the timber purchasers did not harvest the timber.

“(f) Performance and Payment Guarantees.—

“(1) In general.—The Forest Service and the Bureau of Land Management may require performance and payment bonds, in accordance with sections 103–2 and 103–2 of part 28 of the Federal Acquisition Regulation (48 C.F.R. 28.103–2, 28.103–3), in an amount that the contracting officer considers sufficient to protect the Government’s investment in receipts generated by the contractor from the estimated value of the forest products to be removed under contract under subsection (a).

“(2) Excess offset value.—If the offset value of the forest products exceeds the value of the resource improvement treatments, the Forest Service and the Bureau of Land Management may—

“(A) collect any residual receipts pursuant to the Act of June 9, 1930 (46 Stat. 527, chapter 416; 16 U.S.C. 576b); and

“(B) apply the excess to other authorized stewardship projects.

“(g) Monitoring, Evaluation and Reporting.—The Forest Service and the Bureau of Land Management shall establish a multiparty monitoring and evaluation process that accesses the stewardship contracting projects conducted under this section. Besides the Forest Service and the Bureau of Land Management, participants in this process may include any cooperating governmental agencies, including tribal governments, and any interested groups or individuals. The Forest Service and the Bureau of Land Management shall report annually to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate on—

“(1) the status of development, execution, and administration of agreements or contracts under subsection (a);

“(2) the specific accomplishments that have resulted; and

“(3) the role of local communities in development of agreements or contract plans.”

### **Herger-Feinstein Quincy Library Group Forest Recovery**

Pub. L. 105–277, div. A, § 101(e) [title IV], Oct. 21, 1998, 112 Stat. 2681–231, 2681–305, as amended by Pub. L. 107–171, title VI, § 6201(d)(5), May 13, 2002, 116 Stat. 419; Pub. L. 110–161, div. F, title IV, § 434, Dec. 26, 2007, 121 Stat. 2153, provided that:

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

“Sec. 401. Pilot Project for Plumas, Lassen, and Tahoe National Forests to Implement Quincy Library Group Proposal. (a) Definition.—For purposes of this section, the term ‘Quincy Library Group-Community Stability Proposal’ means the agreement by a coalition of representatives of fisheries, timber, environmental, county government, citizen groups, and local communities that formed in northern California to develop a resource management program that promotes ecologic and economic health for certain Federal lands and communities in the Sierra Nevada area. Such proposal includes the map entitled ‘QUINCY LIBRARY GROUP Community Stability Proposal’, dated October 12, 1993, and prepared by VESTRA Resources of Redding, California.

“(b) Pilot Project Required.—

“(1) Pilot project and purpose.—The Secretary of Agriculture (in this section referred to as the ‘Secretary’), acting through the Forest Service and after completion of an environmental impact statement (a record of decision for which shall be adopted within 300 days), shall conduct a pilot project on the Federal lands described in paragraph (2) to implement and demonstrate the effectiveness of the resource management activities described in subsection (d) and the other requirements of this section, as recommended in the Quincy Library Group-Community Stability Proposal.

“(2) Pilot project area.—The Secretary shall conduct the pilot project on the Federal lands within Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of Tahoe National Forest in the State of California designated as ‘Available for Group Selection’ on the map entitled ‘QUINCY LIBRARY GROUP Community Stability Proposal’, dated October 12, 1993 (in this section referred to as the ‘pilot project area’). Such map shall be on file and available for inspection in the appropriate offices of the Forest Service.

“(c) Exclusion of Certain Lands, Riparian Protection and Compliance.—

“(1) Exclusion.—All spotted owl habitat areas and protected activity centers located within the pilot project area designated under subsection (b)(2) will be deferred from resource management activities required under subsection (d) and timber harvesting during the term of the pilot project.

“(2) Riparian protection.—

“(A) In general.—The Scientific Analysis Team guidelines for riparian system protection described in subparagraph (B) shall apply to all resource management activities conducted under subsection (d) and all timber harvesting activities that occur in the pilot project area during the term of the pilot project.

“(B) Guidelines described.—The guidelines referred to in subparagraph (A) are those in the document entitled ‘Viability Assessments and Management Considerations for Species Associated with Late-Successional and Old-Growth Forests of the Pacific Northwest’, a Forest Service research document dated March 1993 and co-authored by the Scientific Analysis Team, including Dr. Jack Ward Thomas.

“(C) Limitation.—Nothing in this section shall be construed to require the application of the Scientific Analysis Team guidelines to any livestock grazing in the pilot project area during the term of the pilot project, unless the livestock grazing is being conducted in the specific location at which the Scientific Analysis Team guidelines are being applied to an activity under subsection (d).

“(3) Compliance.—All resource management activities required by subsection (d) shall be implemented to the extent consistent with applicable Federal law and the standards and guidelines for the conservation of the California spotted owl as set forth in the California Spotted Owl Sierran Provenance Interim Guidelines or the subsequently issued guidelines, whichever are in effect.

“(4) Roadless area protection.—The Regional Forester for Region 5 shall direct that any resource management activity required by subsection (d)(1) and (2), all road building, all timber harvesting activities, and any riparian management under subsection (d)(4) that utilizes road construction or timber harvesting shall not be conducted on Federal lands within the Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of the Tahoe National Forest that are designated as either ‘Off Base’ or ‘Deferred’ on the map referred to in subsection (a). Such direction shall be effective during the term of the pilot project.

“(d) Resource Management Activities.—During the term of the pilot project, the Secretary shall implement and carry out the following resource management activities on an acreage basis on the Federal lands included within the pilot project area designated under subsection (b)(2):

“(1) Fuelbreak construction.—Construction of a strategic system of defensible fuel profile zones, including shaded fuelbreaks, utilizing thinning, individual tree selection, and other methods of vegetation management consistent with the Quincy Library Group-Community Stability Proposal, on not less than 40,000, but not more than 60,000, acres per year.

“(2) Group selection and individual tree selection.—Utilization of group selection and individual tree selection uneven-aged forest management prescriptions described in the Quincy Library Group-Community Stability Proposal to achieve a desired future condition of all-age, multistory, fire resilient forests as follows:

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“(A) Group selection.—Group selection on an average acreage of .57 percent of the pilot project area land each year of the pilot project.

“(B) Individual tree selection.—Individual tree selection may also be utilized within the pilot project area.

“(3) Total acreage.—The total acreage on which resource management activities are implemented under this subsection shall not exceed 70,000 acres each year.

“(4) Riparian management.—A program of riparian management, including wide protection zones and riparian restoration projects, consistent with riparian protection guidelines in subsection (c)(2)(B).

“(e) Cost-Effectiveness.—In conducting the pilot project, Secretary shall use the most cost-effective means available, as determined by the Secretary, to implement resource management activities described in subsection (d).

“(f) Funding.—

“(1) Source of funds.—In conducting the pilot project, the Secretary shall use, subject to the relevant reprogramming guidelines of the House and Senate Committees on Appropriations—

“(A) those funds specifically provided to the Forest Service by the Secretary to implement resource management activities according to the Quincy Library Group-Community Stability Proposal; and

“(B) year-end excess funds that are allocated for the administration and management of Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of Tahoe National Forest.

“(2) Prohibition on use of certain funds.—The Secretary may not conduct the pilot project using funds appropriated for any other unit of the National Forest System.

“(3) Flexibility.—Subject to normal reprogramming guidelines, during the term of the pilot project, the forest supervisors of Plumas National Forest, Lassen National Forest, and Tahoe National Forest may allocate and use all accounts that contain year-end excess funds and all available excess funds for the administration and management of Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of Tahoe National Forest to perform the resource management activities described in subsection (d).

“(4) Restriction.—The Secretary or the forest supervisors, as the case may be, shall not utilize authority provided under paragraphs (1)(B) and (3) if, in their judgment, doing so will limit other nontimber related multiple use activities for which such funds were available.

“(5) Overhead.—The Secretary shall seek to ensure that of amounts available to carry out this section—

“(A) not more than 12 percent is used or allocated for general administration or other overhead; and

“(B) at least 88 percent is used to implement and carry out activities required by this section.

“(6) Authorized supplemental funds.—There are authorized to be appropriated to implement and carry out the pilot project such sums as are necessary.

“(7) Baseline funds.—Amounts available for resource management activities authorized under subsection (d) shall at a minimum include existing baseline funding levels.

“(g) Term of Pilot Project.—The Secretary shall conduct the pilot project until September 30, 2012.

“(h) Consultation.—(1) The statement required by subsection (b)(1) shall be prepared in consultation with interested members of the public, including the Quincy Library Group.

“(2) Contracting.—The Forest Service, subject to the availability of appropriations, may carry out any (or all) of the requirements of this section using private contracts.

“[(i)] By June 1, 2008, the Forest Service shall initiate a collaborative process with the Plaintiffs in *Sierra Nevada Forest Prot. Campaign v. Rey*, Case No. CIV-S-05-0205 MCE/GGH (E.D. Cal.), appeal docketed sub nom. *Sierra Forest Legacy v. Rey*, No. 07-16892 (9th Cir. Oct. 23, 2007) and the Quincy Library Group to determine whether modifications to the Pilot Project are appropriate for the remainder of the Pilot Project.

“(j) Status Reports.—

“(1) In general.—Not later than February 28 of each year during the term of the pilot project, the Secretary shall submit to Congress a report on the status of the pilot project. The report shall include at least the following:

“(A) A complete accounting of the use of funds made available under subsection (f)(1)(A) until such funds are fully expended.

“(B) A complete accounting of the use of funds and accounts made available under subsection (f)(1) for the previous fiscal year, including a schedule of the amounts drawn from each account used to perform resource management activities described in subsection (d).

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>).

“(C) A description of total acres treated for each of the resource management activities required under subsection (d), forest health improvements, fire risk reductions, water yield increases, and other natural resources-related benefits achieved by the implementation of the resource management activities described in subsection (d).

“(D) A description of the economic benefits to local communities achieved by the implementation of the pilot project.

“(E) A comparison of the revenues generated by, and costs incurred in, the implementation of the resource management activities described in subsection (d) on the Federal lands included in the pilot project area with the revenues and costs during each of the fiscal years 1992 through 1997 for timber management of such lands before their inclusion in the pilot project.

“(F) A proposed schedule for the resource management activities to be undertaken in the pilot project area during the 1-year period beginning on the date of submittal of the report.

“(G) A description of any adverse environmental impacts from the pilot project.

“(2) Limitation on expenditures.—The amount of Federal funds expended on each annual report under this subsection shall not exceed \$125,000.

“(k) Final Report.—

“(1) In general.—The Secretary shall establish an independent scientific panel to review and report on whether, and to what extent, implementation of the pilot project under this section achieved the goals stated in the Quincy Library Group-Community Stability Proposal, including improved ecological health and community stability. The membership of the panel shall reflect expertise in diverse disciplines in order to adequately address all of those goals.

“(2) Preparation.—The panel shall initiate such review no sooner than 18 months after the first day of the term of the pilot project under subsection (g). The panel shall prepare the report in consultation with interested members of the public, including the Quincy Library Group. The report shall include, but not be limited to, the following:

“(A) A description of any adverse environmental impacts resulting from implementation of the pilot project.

“(B) An assessment of watershed monitoring data on lands treated pursuant to this section. Such assessment shall address the following issues on a priority basis: timing of water releases; water quality changes; and water yield changes over the short- and long-term in the pilot project area.

“(3) Submission to the congress.—The panel shall submit the final report to the Congress as soon as practicable, but in no case later than 18 months after completion of the pilot project.

“(4) Limitation on expenditures.—The amount of Federal funds expended for the report under this subsection, other than for watershed monitoring, shall not exceed \$350,000. The amount of Federal funds expended for watershed monitoring under this subsection shall not exceed \$175,000 for each fiscal year in which the report is prepared.

“(l) Relationship to Other Laws.—Nothing in this section exempts the pilot project from any Federal environmental law.

“(m) Sections 104–106 of Public Law 108–148 [16 U.S.C. 6514–6516] shall apply to projects authorized by this Act [probably should be this title].

“Sec. 402. Short Title. Section 401 of this title may be cited as the ‘Herger-Feinstein Quincy Library Group Forest Recovery Act’.”

[Pub. L. 108–7, div. F, title III, § 338, Feb. 20, 2003, 117 Stat. 278, provided that: “Congress reaffirms its original intent that the Herger-Feinstein Quincy Library Group Forest Recovery Act of 1998 [Pub. L. 105–277, div. A, § 101(e) [title IV, § 401], set out above] be implemented, and hereby extends the expiration of the Quincy Library Group Act by 5 years.”]