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TITLE 16--CONSERVATION

CHAPTER 41--COOPERATIVE FORESTRY ASSISTANCE

Sec. 2101. Findings, purpose, and policy

(a) Findings

Congress finds that--

(1) most of the productive forest land of the United States is in private, State, and local governmental ownership, and the capacity of the United States to produce renewable forest resources is significantly dependent on such non-Federal forest lands;

(2) adequate supplies of timber and other forest resources are essential to the United States, and adequate supplies are dependent on efficient methods for establishing, managing, and harvesting trees and processing, marketing, and using wood and wood products;

(3) nearly one-half of the wood supply of the United States comes from nonindustrial private timberlands and such percentage could rise with expanded assistance programs;

(4) managed forest lands provide habitats for fish and wildlife, as well as aesthetics, outdoor recreation opportunities, and other forest resources;

(5) the soil, water, and air quality of the United States can be maintained and improved through good stewardship of privately held forest resources;

(6) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;

(7) fires in rural areas threaten human lives, property, forests and other resources, and Federal-State cooperation in forest fire protection has proven effective and valuable;

(8) trees and forests are of great environmental and economic value to urban areas;

(9) managed forests contribute to improving the quality, quantity, and timing of water yields that are of broad benefit to society;

(10) over half the forest lands of the United States are in need of some type of conservation treatment;

(11) forest landowners are being faced with increased pressure to convert their forest land to development and other purposes;

(12) increased population pressures and user demands are being placed on private, as well as public, landholders to provide a wide variety of products and services, including fish and wildlife habitat, aesthetic quality, and recreational opportunities;

(13) stewardship of privately held forest resources requires a long-term commitment that can be fostered through local, State, and Federal governmental actions;

(14) the Department of Agriculture, through the coordinated efforts of its agencies with forestry responsibilities, cooperating with other Federal agencies, State foresters, and State political subdivisions, has the expertise and experience to assist private landowners in achieving individual goals and public benefits

regarding forestry;

(15) the products and services resulting from nonindustrial private forest land stewardship provide income and employment that contribute to the economic health and diversity of rural communities; \1\

\1\ See 1990 Amendment note below.

(16) sustainable agroforestry systems and tree planting in semiarid lands can improve environmental quality and maintain farm yields and income; and \1\

(18) \2\ the same forest resource supply, protection, and management issues that exist in the United States are also present on an international scale, and the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other purposes, over-grazing, over-harvesting, and other causes which pose a direct adverse threat to people, the global environment, and the world economy.\1\

\2\ So in original. Probably should be ``'(17)''.

(b) Purpose

It is the purpose of this chapter to authorize the Secretary of Agriculture (hereafter in this chapter referred to as the ``Secretary''), with respect to non-Federal forest lands in the United States, and forest lands in foreign countries, of the United States, to assist in--

- (1) the establishment of a coordinated and cooperative Federal, State, and local forest stewardship program for management of the non-Federal forest lands;
- (2) the encouragement of the production of timber;
- (3) the prevention and control of insects and diseases affecting trees and forests;
- (4) the prevention and control of rural fires;
- (5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;
- (6) the improvement and maintenance of fish and wildlife habitat;
- (7) the planning and conduct of urban forestry programs;
- (8) broadening existing forest management, fire protection, and insect and disease protection programs on non-Federal forest lands to meet the multiple use objectives of landowners in an environmentally sensitive manner;
- (9) providing opportunities to private landowners to protect ecologically valuable and threatened non-Federal forest lands; and
- (10) strengthening educational, technical, and financial assistance programs that provide assistance to owners of non-Federal forest lands in the United States, and forest lands in foreign countries.\3\

\3\ So in original.

(c) Policy

It is the policy of Congress that it is in the national interest for the Secretary to work through and in cooperation with State foresters, or equivalent State officials, nongovernmental organizations, and the private sector in implementing Federal programs affecting non-Federal forest lands.

(d) Construction

This chapter shall be construed to complement the policies and direction under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(Pub. L. 95-313, Sec. 2, July 1, 1978, 92 Stat. 365; Pub. L. 101-513, title VI, Sec. 611(b)(1), (2), formerly Sec. 607(b)(1), (2), Nov. 5, 1990, 104 Stat. 2072, renumbered Sec. 611(b)(1), (2), Pub. L. 102-574, Sec. 2(a)(1), Oct. 29, 1992, 106 Stat. 4593; Pub. L. 101-624, title XII, Sec. 1212, Nov. 28, 1990, 104 Stat. 3521.)

References in Text

This chapter, referred to in subsecs. (b) and (d), was in the original ``this Act'', meaning Pub. L. 95-313, July 1, 1978, 92 Stat. 365, known as the Cooperative Forestry Assistance Act of 1978. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (d), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (Sec. 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

Codification

Pub. L. 101-513 and Pub. L. 101-624 were approved by the President after Congress adjourned and in reverse order of passage by Congress. Accordingly, the amendments made by Pub. L. 101-624 were executed to text prior to the amendments made by Pub. L. 101-513 to reflect the probable intent of Congress.

Amendments

1990--Pub. L. 101-624 amended section generally, substituting present provisions for provisions which set forth Congressional findings and declarations, and statements of purpose and national interest, and which related to application with forest and rangeland renewable resources provisions. See Codification note above.

Pub. L. 101-513, Sec. 607(b)(1), directed the amendment of subsec. (a) by striking out ``and'' at end of par. (16), substituting ``; and'' for period at end of par. (17), and adding par. (18) at end. The amendment of pars. (16) and (17) was executed to pars. (15) and (16) to reflect the probable intent of Congress. See Codification note above.

Pub. L. 101-513, Sec. 607(b)(2), which directed the amendment of subsec. (b) by inserting ``in the United States, and forest lands in foreign countries,'' after ``non-Federal forest lands,'' the first place it appears and in paragraph (10), was executed by making the insertion after ``non-Federal forest lands'' to reflect the probable intent of Congress. See Codification note above.

Effective Date

Section 17, formerly section 14, of Pub. L. 95-313, as renumbered Sec. 17 by Pub. L. 101-624, title XII, Sec. 1215(1), Nov. 28, 1990, 104 Stat. 3525, provided that: ``The provisions of this Act [see Short Title note below] shall become effective October 1, 1978.''

Short Title of 1990 Amendment

Section 1201 of title XII of Pub. L. 101-624 provided that: ``This title [enacting sections 582a-8, 1648, 1649, 1674a, 2103a to 2103c, 2106a, 2113, and 2114 of this title, amending this section and sections 1642, 1672, 1674, 2102 to 2106, and 2108 to 2110 of this title, and enacting provisions set out as notes under this section and sections 582a, 1601, 1642, and 2112 of this title] may be cited as the `Forest Stewardship Act of 1990'.'

Short Title

Section 1 of Pub. L. 95-313 provided: ``That this Act [enacting this chapter, amending sections 1510 and 1606 of this title, repealing sections 565, 566, 567, 568c to 568e, 594-1 to 594-5, 594a, and 1509 of this title, and sections 2651 to 2654 of Title 7, Agriculture, enacting provisions set out as notes under this section and section 1606 of this title, and repealing provisions set out as notes under sections 568c and 594-1 of this title] may be cited as the `Cooperative Forestry Assistance Act of 1978'.'

America the Beautiful Act of 1990

Subtitle C (Secs. 1261-1266) of title XII of Pub. L. 101-624, as amended by Pub. L. 102-237, title X, Sec. 1018(e), Dec. 13, 1991, 105 Stat. 1905, provided that:

``SEC. 1261. SHORT TITLE.

``This subtitle may be cited as the `America the Beautiful Act of 1990'.

``SEC. 1262. FINDINGS.

``Congress finds that--

``(1) trees and forests provide beauty and diversity to both rural and urban landscapes;

``(2) trees and forests protect the United States's soil, water, and wetland resources by filtering runoff and preventing erosion;

``(3) trees and forests provide food and cover for many species of wildlife;

``(4) trees and forests provide shade, block winds, and add moisture to the air, thereby mitigating the urban `heat island' effect and significantly reducing energy use;

``(5) trees and forests make important contributions to the environmental, social, and economic well-being of both rural and urban areas across the United States; and

``(6) stewardship of trees and forests could be significantly enhanced by encouraging, promoting, and supporting partnerships and community service projects involving individuals, youth groups, organizations, businesses and governments at all levels.

``SEC. 1263. PURPOSES.

``The purposes of this subtitle are to--

``(1) authorize the President to designate a private nonprofit foundation as eligible for a one-time grant from the Secretary of Agriculture, to be used for promoting public awareness and a spirit of volunteerism, soliciting private sector contributions, and overseeing the use of these contributions to encourage tree planting projects in communities and urban areas;

``(2) promote the principles of basic forest stewardship through the nationwide planting, improvement, and maintenance of trees in order to increase reforestation, enhance the environmental and aesthetic qualities of the United States's rural and urban areas, and reduce global carbon dioxide levels;

``(3) authorize the Secretary of Agriculture to provide increased financial and technical assistance to State forestry agencies and others, and enter into cost-sharing agreements with

individuals, for the purpose of encouraging owners of nonindustrial private lands to plant and maintain trees and improve forests in rural areas; and

((4) authorize the Secretary of Agriculture to provide increased financial and technical assistance to State forestry agencies and others for the purpose of encouraging units of local government, civic groups, and individuals to plant and maintain trees and improve forests in communities and urban areas.

SEC. 1264. TREE PLANTING FOUNDATION.

((a) Purpose.--The purpose of this section is to authorize the President to designate a private nonprofit Foundation as eligible to receive a grant from the Department of Agriculture to be used--

((1) to provide grants, including matching grants, to qualifying nonprofit organizations (including youth groups), municipalities, counties, towns and townships for the implementation of programs to promote public awareness and a spirit of volunteerism in support of tree planting, maintenance, management, protection, and cultivation projects in rural areas, communities and urban areas throughout the United States;

((2) to solicit public and private sector contributions through the mobilization of individuals, businesses, governments, and community organizations with the goal of increasing the number of trees planted, maintained, managed, and protected in rural areas, communities and urban environments;

((3) to accept and administer public and private gifts and make grants, including matching grants, to encourage local participation, for the planting, maintenance, management, protection, and cultivation of trees; and

((4) to ensure that our descendants will be able to share their ancestors' pride when referring to their land as 'America the Beautiful'.

((b) Authority.--The President is authorized to designate a private nonprofit organization (hereafter in this section referred to as the 'Foundation') as eligible to receive funds pursuant to subsections (d) and (e) upon determining that such organization can, consistent with its charter, carry out the purposes stated in subsection (a), and that the officers of such organization have the experience and expertise necessary to direct the activities of the organization. Nothing in this section shall be construed to make officers, employees, or members of the board of directors of the Foundation officers or employees of the United States. The Foundation shall be a private and nonprofit organization and not an agency or establishment of the United States.

((c) Implementation.--The Foundation shall carry out this section in accordance with the purposes stated in subsection (a).

((d) Funding.--For fiscal year 1991, the Secretary is authorized to make a grant of not to exceed \$25,000,000 to the Foundation.

((e) Use of Funds.--Funds made available pursuant to subsection (d) shall be granted to the Foundation by the Secretary to enable the Foundation to carry out the purposes specified in subsection (a).

((f) Interest.--Notwithstanding any other provision of law, the Foundation may hold funds made available pursuant to subsection (e) in interest-bearing accounts prior to the disbursement of the funds for purposes specified in subsection (a) and may retain to carry out such purposes any interest earned on the deposits.

((g) Limitations on Uses of Funds.--

((1) In general.--The Foundation may use funds provided by this section only for making grants to qualified organizations, municipalities, counties, towns and townships for the implementation of projects and activities that are consistent with the purposes specified in subsection (a).

((2) Qualified organizations.--For the purposes of this section, qualified organizations shall consist of those organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and have

demonstrated a capability to implement the project or activity for which the Foundation funds will be used.

``(h) Compensation from Outside Sources.--An officer or employee of the Foundation may not receive any salary or other compensation for services rendered to the Foundation from any source other than the Foundation.

``(i) Stock and Dividends.--The Foundation shall not issue any shares of stock or declare or pay any dividends.

``(j) Lobbying.--The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

``(k) Salary; Travel and Expenses; Conflicts of Interest.--

``(1) Personal benefit from funds.--No part of the funds of the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses.

``(2) Travel and expense reimbursement.--Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

``(3) Conflicts of interest.--No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting--

``(A) the financial interests of the director, officer, or employee; or

``(B) the interests of any corporation, partnership, entity, or organization in which such director, officer, or employee--

``(i) is an officer, director, or trustee; or

``(ii) has any direct or indirect financial interest.

``(l) Records; Audits.--The Foundation shall ensure that--

``(1) each recipient of assistance provided through the Foundation under this section maintains, for at least 5 years after the receipt of the assistance, separate accounts with respect to the assistance and such records as may be reasonably necessary to disclose fully--

``(A) the amount and the disposition by the recipient of the proceeds of the assistance;

``(B) the total cost of the project or undertaking in connection with which the assistance is given or used;

``(C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

``(D) such other records as will facilitate an effective audit; and

``(2) the Foundation and any duly authorized representative of the Foundation shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Foundation under this section.

``(m) Audits.--

``(1) Independent audits.--For the fiscal year in which the Foundation receives the grant awarded under subsection (e), and for the succeeding 5 fiscal years, the accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by subsection (n).

``(2) Agency audits.--For the fiscal year in which the Foundation receives the grant awarded under subsection (d), and for the succeeding 5 fiscal years, the financial transactions undertaken pursuant to this section by the Foundation may be audited by any agency designated by the President.

``(n) Annual Reports.--

``(1) In general.--Not later than 3 months after the conclusion of each fiscal year, the Foundation shall publish an annual report that includes a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Foundation under this subtitle during the fiscal year.

``(2) Termination.--The obligation of the Foundation to publish annual reports pursuant to this subsection shall terminate after publication of the report incorporating the findings of the final audit in accordance with procedures required by subsection (l).

``(o) Prohibition on Commercial Harvest.--Trees planted pursuant to a program receiving funds under this section may not be commercially harvested and sold for Christmas trees.

``(p) Authorization of Appropriations.--There is authorized to be appropriated \$25,000,000 to be granted by the Secretary of Agriculture to the Foundation. All funds appropriated under this section may remain available until expended.

``SEC. 1265. RURAL TREE PLANTING AND FOREST MANAGEMENT PROGRAM.

``The Secretary of Agriculture is authorized to establish a rural tree planting and forest management program as a special component of the forest stewardship program and the stewardship incentive program established under sections 5 and 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2102) [16 U.S.C. 2103a, 2103b] (as amended by subtitle A). Such program shall terminate on December 31, 2001.

``SEC. 1266. COMMUNITY TREE PLANTING AND IMPROVEMENT PROGRAM.

``The Secretary of Agriculture is authorized to establish a community tree planting and improvement program as a special component of the urban and community forestry assistance program established under section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) (as amended by section 1219). Such program shall terminate on December 31, 2001.''

Tree Planting Initiative

Pub. L. 99-198, title XII, Sec. 1256, as added by Pub. L. 101-624, title XIV, Sec. 1441(a), Nov. 28, 1990, 104 Stat. 3601, set forth policy relating to maintenance, afforestation, and reforestation of forest lands and provisions relating to implementation of policy and agreements with State forestry agencies, prior to repeal by Pub. L. 104-127, title III, Sec. 336(e), Apr. 4, 1996, 110 Stat. 1007.

Transfer of Forest Tree Nursery Facilities to States

Pub. L. 87-492, June 25, 1962, 76 Stat. 107, provided: ``That the Congress recognizes that for many years the United States and certain States have cooperated in the production of tree planting stock for use in the reforestation of the public and private lands of the Nation; that the program of production of tree planting stock which was initiated and pursued under the Soil Bank Act (7 U.S.C. 1801 et seq.) [repealed] was carried on under written agreements which provided for (a) cooperation between the Forest Service, on behalf of the United States, and the States which participated in the program, (b) payments to said States for costs and expenses incurred in the development of nursery facilities, (c) the holding of such funds by the States in trust for the purpose of carrying out the provisions of said agreements, and (d) restoration to the trust fund of an amount equal to the residual value of any supplies, materials, equipment, or improvements acquired or constructed with trust funds and transferred to State forestry work other than the soil bank program; that such program under said Soil Bank Act has been discontinued, but the need for the trees continues to be great; that the States and Federal Government are cooperating in the

procurement, production, and distribution of forest-tree seeds and plants under section 4 of the Clarke-McNary Act of June 7, 1924 (16 U.S.C. 567), and in the reforestation of lands under title IV of the Agricultural Act of 1956 (16 U.S.C. 568e and 568g); and that said participating States need the said supplies, materials, equipment, or improvements for use in connection with their respective forestry programs, and it is in the public interest to permit these States to use said property without the requirement that payment be made for the residual value thereof.

Sec. 2. For the purpose of assisting those States which participated in the program carried on under the Soil Bank Act [section 1801 et seq. of Title 7, Agriculture] [repealed] in continuing the production of needed tree planting stock and in other forestry programs, the Secretary of Agriculture is authorized to permit any supplies, materials, equipment, or improvements acquired or constructed with trust funds under the agreements referred to in section 1 to be used in such State forestry work as may further the objectives of related Federal programs, as he may approve, without the requirement that any payment be made by the State into the trust funds.'