

107TH CONGRESS
1ST SESSION

S. 820

To amend the Energy Policy Act of 1992 to assess opportunities to increase carbon storage on national forests derived from the public domain and to facilitate voluntary and accurate reporting of forest projects that reduce atmospheric carbon dioxide concentrations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2001

Mr. WYDEN (for himself and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Energy Policy Act of 1992 to assess opportunities to increase carbon storage on national forests derived from the public domain and to facilitate voluntary and accurate reporting of forest projects that reduce atmospheric carbon dioxide concentrations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Forest Resources for
5 the Environment and the Economy Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) the Federal Government should increase the
4 long-term forest carbon storage on public land while
5 pursuing existing statutory objectives;

6 (2) insufficient information exists on the oppor-
7 tunities to increase carbon storage on public land
8 through improvements in forest land management;

9 (3) important environmental benefits to na-
10 tional forests can be achieved through cooperative
11 forest projects that enhance fish and wildlife habi-
12 tats, water, and other resources on public or private
13 land located in national forest watersheds;

14 (4) forest projects also provide economic bene-
15 fits, including—

16 (A) employment and income that con-
17 tribute to the sustainability of rural commu-
18 nities; and

19 (B) ensuring future supplies of forest
20 products;

21 (5) monitoring and verification of forest carbon
22 storage provides an important opportunity to create
23 employment in rural communities and substantiate
24 improvements in natural habitats or watersheds due
25 to forestry activities; and

1 (6) sustainable production of biomass energy
2 feedstocks provides a renewable source of energy
3 that can reduce carbon dioxide emissions and im-
4 prove the energy security of the United States by di-
5 versifying energy fuels.

6 (b) PURPOSE.—The purpose of this Act is to promote
7 sustainable forestry in the United States by—

8 (1) increasing forest carbon sequestration in the
9 United States;

10 (2) encouraging long term carbon storage in
11 forests of the United States;

12 (3) improving water quality;

13 (4) enhancing fish and wildlife habitats;

14 (5) providing employment and income to rural
15 communities;

16 (6) providing new sources of forest products;

17 (7) providing opportunities for use of renewable
18 biomass energy; and

19 (8) improving the energy security of the United
20 States.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) CARBON SEQUESTRATION.—The term “car-
24 bon sequestration” means the action of vegetable
25 matter in—

1 (A) extracting carbon dioxide from the at-
2 mosphere through photosynthesis;

3 (B) converting the carbon dioxide to car-
4 bon; and

5 (C) storing the carbon in the form of roots,
6 stems, soil, or foliage.

7 (2) FORESTRY CARBON ACTIVITY.—The term
8 “forestry carbon activity” means a forest manage-
9 ment action that—

10 (A) increases carbon sequestration and/or
11 maintains carbon sinks,

12 (B) encourages long-term carbon storage,
13 and

14 (C) has no net negative impact on water-
15 sheds and fish and wildlife habitats.

16 (3) FOREST CARBON PROGRAM.—The term
17 “forest carbon program” means the program estab-
18 lished by the Secretary of Agriculture under section
19 5 of the Forest Resources for the Environment and
20 the Economy Act, to provide assistance through co-
21 operative agreements and State revolving loan funds.

22 (4) FOREST CARBON RESERVOIR.—The term
23 “forest carbon reservoir” means trees, roots, soils, or
24 other biomass associated with forest ecosystems or
25 products from the biomass that store carbon.

1 (5) FOREST CARBON STORAGE.—The term
2 “forest carbon storage” means the quantity of car-
3 bon sequestered from the atmosphere and stored in
4 forest carbon reservoirs, including forest products.

5 (6) FOREST LAND—

6 (A) IN GENERAL.—The term “forest land”
7 means land that is, or has been, at least 10 per-
8 cent stocked by forest trees of any size.

9 (B) INCLUSIONS.—The term “forest land”
10 includes—

11 (i) land that had such forest cover
12 and that will be naturally or artificially re-
13 generated; and

14 (ii) a transition zone between a for-
15 ested and nonforested area that is capable
16 of sustaining forest cover.

17 (7) FOREST MANAGEMENT ACTION.—The term
18 “forest management action” means the practical ap-
19 plication of forestry principles to the regeneration,
20 management, utilization, and conservation of forests
21 to meet specific goals and objectives, while maintain-
22 ing the productivity of the forests, including man-
23 agement of forests for aesthetics, fish, recreation,
24 urban values, water, wilderness, wildlife, wood prod-
25 ucts, and other forest values.

1 (8) INVASIVE SPECIES.—The term “invasive
2 species” means any species that is not native to an
3 ecosystem and whose introduction does or is likely to
4 cause economic or environmental harm or harm to
5 human health.

6 (9) NONINDUSTRIAL PRIVATE FOREST.—The
7 term “nonindustrial private forest” means forest
8 land that is privately owned by an individual or cor-
9 poration that does not control a forest products
10 manufacturing facility and where management may
11 include objectives other than timber production.

12 (10) REFORESTATION.—

13 (A) IN GENERAL.—The term “reforest-
14 ation” means the reestablishment of forest
15 cover naturally or artificially.

16 (B) INCLUSIONS.—The term “reforest-
17 ation” includes—

18 (i) planned replanting;

19 (ii) re-seeding; and

20 (iii) natural regeneration.

21 (11) REVOLVING LOAN PROGRAM.—The term
22 “revolving loan program” means a State revolving
23 loan program established under section 5.

1 **SEC. 4. CARBON MANAGEMENT ON FEDERAL LAND; CAR-**
2 **BON MONITORING AND VERIFICATION**
3 **GUIDELINES.**

4 (a) DEFINITIONS.—Title XVI of the Energy Policy
5 Act of 1992 is amended by inserting before section 1601
6 (42 U.S.C. 13381) the following:

7 **“SEC. 1600. DEFINITIONS.**

8 “In this title:

9 “(1) CARBON SEQUESTRATION.—The term ‘car-
10 bon sequestration’ means the action of vegetable
11 matter in—

12 “(A) extracting carbon dioxide from the at-
13 mosphere through photosynthesis;

14 “(B) converting the carbon dioxide to car-
15 bon; and

16 “(C) storing the carbon in the form of
17 roots, stems, soil, or foliage.

18 “(2) FOREST CARBON STORAGE.—The term
19 ‘forest carbon storage’ means the quantity of carbon
20 sequestered from the atmosphere and stored in for-
21 est carbon reservoirs, including forest products.

22 “(3) FOREST CARBON PROGRAM.—The term
23 ‘forest carbon program’ means the program estab-
24 lished by the Secretary of Agriculture under section
25 5 of the Forest Resources for the environment and
26 the Economy Act, to provide financial assistance

1 through cooperative agreements and State revolving
2 loan funds for forest carbon activities.

3 “(4) FOREST CARBON RESERVOIR.—The term
4 ‘forest carbon reservoir’ means trees, roots, soils, or
5 other biomass associated with forest ecosystems or
6 products from the biomass that store carbon.

7 “(5) FOREST MANAGEMENT ACTION.—The term
8 ‘forest management action’ means the practical ap-
9 plication of forestry principles to the regeneration,
10 management, utilization, and conservation of forests
11 to meet specific goals and objectives, while maintain-
12 ing the productivity of the forests, including man-
13 agement of forests for aesthetics, fish, recreation,
14 urban values, water, wilderness, wildlife, wood prod-
15 ucts, and other forest values.”

16 (b) CARBON MANAGEMENT ON FEDERAL LAND.—
17 Section 1604 of the Energy Policy Act of 1992 (42 U.S.C.
18 13384) is amended—

19 (1) by inserting “(a) REPORT.—” before
20 “NOT”; and

21 (2) by adding at the end the following:

22 “(b) CARBON MANAGEMENT ON FEDERAL LAND.—

23 “(1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this subsection, after con-
25 sultation with appropriate Federal agencies, the Sec-

1 retary of Agriculture, acting through the Chief of
2 the Forest Service, shall report to Congress on—

3 “(A) the quantity of carbon contained in
4 the forest carbon reservoir of the National For-
5 est System and the methodology and assump-
6 tions used to ascertain that quantity;

7 “(B) the potential to increase the quantity
8 of carbon in the National Forest System and
9 provide positive impacts on watersheds and fish
10 and wildlife habitats through forest manage-
11 ment actions; and

12 “(C) the role of forests in the carbon cycle
13 and the contributions of U.S. forestry to the
14 global carbon budget.

15 “(2) CONTENTS.—The report shall also include
16 an assessment of any impacts of the forest manage-
17 ment actions identified under paragraph (1)(B) on
18 timber harvests, wildlife habitat, recreation, forest
19 health, and other statutory objectives of national for-
20 est system management.”

21 (c) MONITORING AND VERIFICATION OF CARBON
22 STORAGE.—Section 1605(b) of the Energy Policy Act of
23 1992 (42 U.S.C. 13385(b)) is amended by adding at the
24 end the following:

1 “(5) GUIDELINES ON REPORTING, MONITORING,
2 AND VERIFICATION OF CARBON STORAGE FROM FOR-
3 EST MANAGEMENT ACTIONS.—

4 “(A) IN GENERAL.—Not later than 18
5 months after the date of enactment of this
6 paragraph, the Secretary of Agriculture, acting
7 through the Chief of the Forest Service, shall—

8 “(i) review the guidelines established
9 under paragraph (1) that address proce-
10 dures for the accurate voluntary reporting
11 of greenhouse gas sequestration from tree
12 planting and forest management actions;

13 “(ii) make recommendations to the
14 Secretary of Energy for amendment of the
15 guidelines; and

16 “(iii) provide an opportunity for pub-
17 lic comment on the guidelines established
18 under subparagraph (A) prior to their sub-
19 mission to the Secretary of Energy.

20 “(B) CARBON AND FORESTRY ADVISORY
21 COUNCIL.—

22 “(i) ESTABLISHMENT.—The Secretary
23 of Agriculture, acting through the Chief of
24 the Forest Service, shall establish a Car-

1 bon and Forestry Advisory Council for the
2 purpose of—

3 “(I) advising the Secretary of
4 Agriculture in the development and
5 updating of guidelines for accurate
6 voluntary reporting of greenhouse gas
7 sequestration from forest management
8 actions;

9 (II) evaluating the potential ef-
10 fectiveness of the guidelines in
11 verifying carbon inputs and outputs
12 from various forest management
13 strategies;

14 “(III) estimating the effect of
15 proposed implementation on carbon
16 sequestration and storage;

17 “(IV) assisting the Secretary of
18 Agriculture in reporting annually to
19 Congress on the results of the carbon
20 storage program; and

21 “(V) assisting the Secretary of
22 Agriculture in assessing the vulner-
23 ability of forests to adverse effects of
24 climate change.

1 “(ii) MEMBERSHIP.—The Advisory
2 Council shall be composed of the following
3 16 members with interest and expertise in
4 carbon sequestration and forestry manage-
5 ment, appointed by the Secretaries of Agri-
6 culture and Energy:

7 “(I) 1 member representing na-
8 tional professional forestry organiza-
9 tions;

10 “(II) 2 members representing en-
11 vironmental or conservation organiza-
12 tions;

13 “(III) 1 member representing
14 nonindustrial, private landowners;

15 “(IV) 1 member representing for-
16 est industry;

17 “(V) 1 member representing
18 American Indian Tribes;

19 “(VI) 1 member representing for-
20 est laborers;

21 “(VII) 3 members representing
22 the academic scientific community;

23 “(VIII) 2 members representing
24 State forestry organizations;

1 “(IX) 1 member representing the
2 Department of Energy;

3 “(X) 1 member representing the
4 Environmental Protection Agency;

5 “(XI) 1 member representing the
6 Department of Agriculture;

7 “(XII) 1 member representing
8 the Department of the Interior

9 “(iii) TERMS.—

10 “(I) IN GENERAL.—Except as
11 provided in subclause (III), a member
12 of the Advisory Council shall be ap-
13 pointed for a term of 3 years.

14 “(II) CONSECUTIVE TERMS.—No
15 individual may serve on the Advisory
16 Council for more than 2 consecutive
17 terms.

18 “(III) INITIAL TERMS.—Of the
19 members first appointed to the Advi-
20 sory Council—

21 “(aa) 1 member appointed
22 under each of subclauses (II),
23 (VI), (VII), (X), and (XIII) of
24 clause (ii) shall serve an initial
25 term of 1 year; and

1 “(bb) 1 member appointed
2 under each of subclauses (I),
3 (IV), (VII), (IX), (XI), and
4 (XIV) shall serve an initial term
5 of 2 years.

6 “(iv) VACANCY.—A vacancy on the
7 Advisory Council shall be filled in the man-
8 ner in which the original appointment was
9 made.

10 “(v) CONTINUATION.—Any member
11 appointed to fill a vacancy occurring before
12 the expiration of the term shall be ap-
13 pointed only for the remainder of the term.

14 “(vi) COMPENSATION.—

15 “(I) IN GENERAL.—Except as
16 provided in subclause (II), a member
17 of the Advisory Council shall serve
18 without compensation, but may be re-
19 imbursed for reasonable costs in-
20 curred while in the actual perform-
21 ance of duties vested in the Advisory
22 Council.

23 “(II) FEDERAL OFFICERS AND
24 EMPLOYEES.—A member of the Advi-
25 sory Council who is a full-time officer

1 or employee of the United States shall
2 receive no additional compensation or
3 allowances because of the service of
4 the member on the Advisory Council.

5 “(III) SUPPORT.—The Secretary
6 shall provide financial and administra-
7 tive support for the Advisory Council.

8 “(vii) USE OF EXISTING COUNCIL.—
9 The Secretary of Agriculture may use an
10 existing council to perform the tasks of the
11 Carbon and Forestry Advisory Council
12 providing—

13 “(I) Council representation,
14 membership terms and background,
15 and Council responsibilities reflect
16 those stated in subparagraph (B), and

17 “(II) The responsibilities of the
18 Council, as described in subparagraph
19 (A), are a priority for the Council.

20 “(C) CRITERIA.—

21 “(i) IN GENERAL.—The recommenda-
22 tions described in subparagraph (A)(ii)
23 shall include reporting guidelines that—

24 “(I) are based on—

1 “(aa) measuring increases in
2 carbon storage in excess of the
3 carbon storage that would have
4 occurred in the absence of the re-
5 forestation, forest management,
6 forest protection, or other forest
7 management actions; and

8 “(bb) comprehensive carbon
9 accounting that reflects net in-
10 creases in the carbon reservoir
11 and takes into account any car-
12 bon emissions resulting from dis-
13 turbance of carbon reservoirs ex-
14 isting at the start of a forest
15 management action;

16 “(II) include options for—

17 “(aa) estimating the indirect
18 effects of forest management ac-
19 tions on carbon storage, includ-
20 ing possible emissions of carbon
21 that may result elsewhere as a
22 result of the project’s impact on
23 timber supplies or possible dis-
24 placement of carbon emissions to

1 other lands owned by the report-
2 ing party;

3 “(bb) quantifying the ex-
4 pected carbon storage over var-
5 ious time periods, taking into ac-
6 count the likely duration of car-
7 bon stored in the carbon res-
8 ervoir; and

9 “(cc) considering the eco-
10 nomic and social affects of man-
11 agement alternatives.

12 “(ii) ACCURATE MONITORING, MEAS-
13 UREMENT, AND VERIFICATION.—

14 “(I) IN GENERAL.—The rec-
15 ommendations described in subpara-
16 graph (A)(ii) shall include rec-
17 ommended practices for monitoring,
18 measurement, and verification of car-
19 bon storage from forest management
20 actions.

21 “(II) REQUIREMENTS.—The rec-
22 ommended practices shall, to the max-
23 imum extent practicable—

24 “(aa) be based on statis-
25 tically sound sampling strategies

1 that build on knowledge of the
2 carbon dynamics of forests and
3 agricultural land;

4 “(bb) include cost-effective
5 combinations of field conditions
6 measurements with modeling to
7 compute carbon stocks and
8 changes in stocks;

9 “(cc) include guidance on
10 how to sample and calculate car-
11 bon sequestration across multiple
12 participating ownerships; and

13 “(dd) do not prevent use of
14 more precise measurements, if
15 desired by a reporting entity.

16 “(D) STATE FOREST CARBON PRO-
17 GRAMS.—The recommendations described in
18 subparagraph (A)(ii) shall include guidelines to
19 States for reporting, monitoring, and verifying
20 carbon storage under the forest carbon pro-
21 gram.

22 “(E) BIOMASS ENERGY PROJECTS.—The
23 recommendations described in subparagraph
24 (A)(ii) shall include guidelines for calculating

1 net greenhouse gas reductions from biomass en-
2 ergy projects, including—

3 “(i) net changes in carbon storage re-
4 sulting from changes in land use; and

5 “(ii) the effect that using biomass to
6 generate electricity (including co-firing of
7 biomass with fossil fuels) has on the dis-
8 placement of greenhouse gas emissions
9 from fossil fuels.

10 “(F) AMENDMENT OF GUIDELINES.—Not
11 later than 180 days after receiving the rec-
12 ommendations from the Secretary of Agri-
13 culture, the Secretary of Energy, acting
14 through the Administrator of the Energy Infor-
15 mation Administration, shall revise the guide-
16 lines established under paragraph (1) to include
17 the recommendations.

18 “(G) REVIEW OF GUIDELINES BY THE AD-
19 VISORY COUNCIL.—

20 “(i) PERIODIC REVIEW.—At least
21 every 24 months, the Secretary of Agri-
22 culture shall—

23 “(I) convene the Advisory Coun-
24 cil to evaluate the latest scientific and
25 observational information on report-

1 ing, monitoring, and verification of
2 carbon storage from forest manage-
3 ment actions; and

4 “(II) issue revised guidelines for
5 reporting, monitoring, and verification
6 of carbon storage from forest manage-
7 ment actions as necessary.

8 “(ii) CONSISTENCY WITH FUTURE
9 LAWS.—The Secretary of Agriculture shall
10 convene the Advisory Council as necessary
11 to ensure that the guidelines for reporting,
12 monitoring, and verification of carbon stor-
13 age from forest management actions are
14 revised to be consistent with any Federal
15 laws enacted after the date of enactment of
16 this Act.

17 “(6) MONITORING OF FOREST CARBON PRO-
18 GRAMS.—

19 “(A) IN GENERAL.—Forest Carbon Pro-
20 gram reports shall—

21 “(i) be developed in accordance with
22 the guidelines issued under paragraph (1),

23 “(ii) state the quantity of carbon stor-
24 age realized,

1 “(iii) include the data used to monitor
2 and verify the carbon storage,

3 “(iv) be consistent with reporting re-
4 quirements of the Energy Information Ad-
5 ministration, and

6 “(v) ensure the avoidance of double
7 counting of forest carbon activities.

8 “(B) STATES AND COOPERATIVE AGREE-
9 MENT PARTICIPANTS.—States receiving assist-
10 ance to establish revolving loans and entities
11 participating in cooperative agreements for for-
12 est carbon programs shall—

13 “(i) monitor and verify carbon storage
14 achieved under the program in accordance
15 with guidelines issued under subparagraph
16 (5)(E),

17 “(ii) report annually to the Secretary
18 of Agriculture on the results of the carbon
19 storage program, and

20 “(iii) report annually to any non-gov-
21 ernmental organization, business, or other
22 entity that provides funding for the carbon
23 storage program.

24 “(C) SECRETARY OF AGRICULTURE.—

1 “(i) IN GENERAL.—The Secretaries
2 shall report annually to Congress on the
3 results of the carbon storage program.

4 “(ii) INCLUSIONS.—The report shall
5 include—

6 “(I) specifications consistent with
7 subparagraph (A),

8 “(II) an assessment of the effec-
9 tiveness of monitoring and
10 verification,

11 “(III) a report on carbon activi-
12 ties associated with cooperative agree-
13 ments for the forest carbon program,
14 and

15 “(IV) a State Forest Carbon
16 Program compliance report estab-
17 lished by—

18 “(aa) reviewing reports sub-
19 mitted by states under clause
20 (B)(ii),

21 “(bb) verifying compliance
22 with the guidelines under sub-
23 paragraph (A),

24 “(cc) notifying the State of
25 compliance status,

1 “(dd) notifying the State of
2 any corrections that are needed
3 to attain compliance, and

4 “(ee) establishing an oppor-
5 tunity for re-submission by the
6 State.”

7 **SEC. 5. FOREST CARBON COOPERATIVE AGREEMENTS AND**
8 **LOAN PROGRAM.**

9 (a) FOREST CARBON COOPERATIVE AGREEMENT.—

10 The Secretary may enter into cooperative agreements with
11 willing landowners from State or local governments, Amer-
12 ican Indian tribes, Alaska Natives, native Hawaiians and
13 private, nonprofit entities for forest carbon activities on
14 private land, state land, American Indian land, Alaska Na-
15 tive land, or native Hawaiian land.

16 (b) FOREST CARBON REVOLVING LOAN PROGRAM.—

17 (1) IN GENERAL.—In collaboration with State
18 Foresters and non-governmental organizations, the
19 Secretary shall provide assistance to States so that
20 States may establish a revolving loan program for
21 forest carbon activities on non-industrial private for-
22 est (NIPF) land.

23 (2) ELIGIBILITY.—An owner of non-industrial
24 private forest land shall be eligible for assistance
25 from a revolving loan fund for forest carbon activity

1 on not more than a total of 5,000 acres of their
2 NIPF land holdings.

3 (3) LOAN TERMS.—A loan agreement under the
4 program shall—

5 (A) have loan interest rates that are estab-
6 lished by the State—

7 (i) as necessary to encourage partici-
8 pation of NIPF landowners in the loan
9 program,

10 (ii) not to exceed a real rate of return
11 in excess of 3%, and

12 (iii) that will further the forest carbon
13 program objectives;

14 (B) require that all loan obligations be re-
15 paid to the State—

16 (i) at the time of harvest of land cov-
17 ered by the program; or

18 (ii) in accordance with any other re-
19 payment schedule determined by the State;

20 (iii) proportional to the percentage de-
21 crease of carbon stock;

22 (C) include provisions that provide for pri-
23 vate insurance or that otherwise release the
24 owner from the financial obligation for any por-

1 tion of the timber, forest products, or other bio-
2 mass that—

3 (i) is lost to insects, disease, fire,
4 storm, flood, or other natural destruction
5 through no fault of the owner; or

6 (ii) cannot be harvested because of re-
7 strictions on tree harvesting imposed by
8 the Federal State, or local government
9 after the date of the agreement;

10 (D) impose a lien on all timber, forest
11 products, and biomass grown on land covered
12 by the loan, with an assurance that the terms
13 of the lien shall transfer with the land on sale,
14 lease, or transfer of the land;

15 (E) include a buyout option that—

16 (i) specifies financial terms allowing
17 the owner to terminate the agreement be-
18 fore harvesting timber from the stand es-
19 tablished with loan funds; and

20 (ii) repays the loan with interest;

21 (F) recognize that, until the loan is paid in
22 full by the participating landowner or otherwise
23 terminated in accordance with this Act, all re-
24 ductions in atmospheric greenhouse gases
25 achieved by the project funded by the loan are

1 attributable to the non-Federal entities that
2 provide funding for a loan (including the State
3 or any other person, company, or non-govern-
4 mental organization that provides funding to
5 the State for purposes of issuing the loan); and

6 (G) include provisions for the monitoring
7 and verification of carbon storage.

8 (4) CANCELLATION OF LOAN TERMS FOR PER-
9 MANENT CONSERVATION.—

10 (A) IN GENERAL.—The State shall cancel
11 the loan agreement under paragraph (3) and
12 any liens on the timber, forest products, and
13 biomass under paragraph (3)(C) if the borrower
14 donates to the State or may cancel the loan
15 agreement under paragraph (3) and any liens
16 on the timber, forest products, and biomass
17 under paragraph (3)(C) if the borrower donates
18 to another appropriate entity a permanent con-
19 servation easement that—

20 (i) furthers the purposes of this Act,
21 including managing the land in a manner
22 that maximizes the forest carbon reservoir
23 of the land; and

24 (ii) permanently protects the covered
25 private forest land and resources at a level

1 above what is required under applicable
2 Federal, State, and local law.

3 (B) CONTINUATION OF FOREST MANAGE-
4 MENT ACTIONS.—The conservation easement
5 may allow the continuation of forest manage-
6 ment actions that increase carbon storage on
7 the land and forest or otherwise further the
8 purposes of this Act.

9 (5) REINVESTMENT OF FUNDS.—All funds col-
10 lected under a loan issued under this subsection (in-
11 cluding loan repayments, loan buyouts, and any in-
12 terest payments) shall be reinvested by the State in
13 the program and used by the State to make addi-
14 tional loans under the program in accordance with
15 this subsection.

16 (6) RECORDS.—The State Forester shall—

17 (A) maintain all records related to any
18 loan agreement funded from a revolving loan
19 fund; and

20 (B) make the records available to the pub-
21 lic.

22 (7) MATCHING FUNDS.—

23 (A) IN GENERAL.—In order to be eligible
24 to continue participating in the program, any
25 State in the program under this section shall

1 provide matching funds equal to at least 25
2 percent of the Federal funds made available to
3 the State for the program, beginning the second
4 year of program participation.

5 (B) FORM.—The State may provide the
6 matching funds in the form of in-kind adminis-
7 trative services, technical assistance, and proce-
8 dures to ensure accountability for the use of
9 Federal funds.

10 (8) LOAN FUNDING DISTRIBUTION.—

11 (A) IN GENERAL.—Not later than 180
12 days after the date of enactment of this Act, in
13 consultation with State Foresters, the Secretary
14 shall—

15 (i) establish a formula under which
16 Federal funds shall be distributed under
17 this subsection among eligible States; and

18 (ii) report the formula and method-
19 ology to Congress.

20 (B) BASIS.—The formula shall—

21 (i) be based on maximizing the poten-
22 tial for meeting the objectives of this Act;

23 (ii) give appropriate consideration
24 to—

1 (I) the acreage of un-stocked or
2 under-producing private forest land in
3 each State;

4 (II) the potential productivity of
5 such land;

6 (III) the potential long-term car-
7 bon storage of such land;

8 (IV) the potential to achieve
9 other environmental benefits;

10 (V) the number of owners eligible
11 for loans under this section in each
12 State; and

13 (VI) the need for reforestation,
14 timber stand improvement, or other
15 forestry investments consistent with
16 the objectives of this Act; and

17 (iii) give priority to States that have
18 experienced or are expected to experience
19 significant declines in employment levels in
20 the forestry industries due to declining
21 timber harvests on Federal land.

22 (9) PRIVATE FUNDING.—A revolving loan fund
23 may accept and distribute as loans any funds pro-
24 vided by non-governmental organizations, businesses,
25 or persons in support of the purposes of this Act.

1 (10) BONNEVILLE POWER ADMINISTRATION.—

2 (A) IN GENERAL.—The States of Wash-
3 ington, Oregon, Idaho, and Montana may apply
4 for funding from the Bonneville Power Admin-
5 istration for purposes of funding loans that
6 meet both the objectives of this Act and the fish
7 and wildlife objectives of the Bonneville Power
8 Administration under the Pacific Northwest
9 Electric Power and Conservation Act (16
10 U.S.C. 839 et seq.).

11 (B) APPLICATION OF REQUIREMENTS
12 UNDER OTHER LAW.—An application under
13 subparagraph (A) shall be subject to all rules
14 and procedures established by the Pacific
15 Northwest Electric Power and Conservation
16 Planning Council and the Bonneville Power Ad-
17 ministration under the Pacific Northwest Elec-
18 tric Power and Conservation Act (16 U.S.C.
19 839 et seq.).

20 (c) REQUIREMENTS.—

21 (1) ELIGIBLE FORESTRY CARBON ACTIVITIES.—

22 Eligible forestry carbon activities that—

23 (A) help restore under-producing or under-
24 stocked forest lands,

1 (B) provide for protection of forests from
2 non-forest use,

3 (C) allow a variety of sustainable manage-
4 ment alternatives, and

5 (D) have no net negative impact on water-
6 sheds and fish and wildlife habitats.

7 (2) GUIDANCE.—The Secretary, working
8 through the US Forest Service and in collaboration
9 with States, shall provide guidance on eligible for-
10 estry carbon activities based on the criteria of this
11 section.

12 (3) ACTIVITIES REQUIRED UNDER OTHER
13 LAW.—Funding shall not be provided under this sec-
14 tion for activities required under other applicable
15 Federal, State, or local laws.

16 (4) PRE-AGREEMENT ACTIVITIES.—Funding
17 shall not be provided for costs incurred before enter-
18 ing into a cooperative or loan agreement under this
19 Act.

20 (5) LIMITATION ON LAND CONSIDERED FOR
21 FUNDING.—No new loan agreements shall be en-
22 tered into under this section to fund reforestation of
23 land harvested after the date of enactment of this
24 Act if the landowner received revenues from the har-
25 vest sufficient to reforest the land.

1 (6) ELIGIBLE TREE SPECIES.—

2 (A) IN GENERAL.—Selection of tree species
3 for loan projects shall be consistent with Execu-
4 tive Order No. 13112, “Invasive Species”.

5 (B) PROGRAM FUNDING.—Funding for re-
6 forestation activities shall be provided for—

7 (i) tree species native to a region,

8 (ii) tree species that formerly occupied
9 the site, or

10 (iii) non-native tree species or hybrids
11 that are non-invasive.

12 (7) FOREST-MANAGEMENT PLAN.—Priority
13 shall be given to projects on land under a forestry
14 management plan or forest stewardship plan, if the
15 plan is consistent with the objectives of the carbon
16 storage program.

17 (8) USE OF FUNDS.—

18 (A) funds will be used to pay—

19 (i) the cost of purchasing and plant-
20 ing tree seedlings; and

21 (ii) other costs associated with the
22 planted trees, including planning, site
23 preparation, forest management, moni-
24 toring, measurement and verification, and
25 consultant and contractor fees.

1 (B) funds will not be used to—

2 (i) pay the owner for the owner's own
3 labor; or

4 (ii) purchase capital items or expend-
5 able items, such as vehicles, tools, and
6 other equipment.

7 (9) FINANCIAL ASSISTANCE AMOUNT.—The
8 amount of financial assistance provided under this
9 section shall not exceed—

10 (A) 100 percent of total project costs,
11 whether they constitute the only funding source
12 or are used in combination with funds received
13 from any other source; or

14 (B) \$100,000 during any 2-year period.

15 (10) FEDERAL FUNDING.—During fiscal years
16 2001 through 2010, civil penalties collected under
17 section 113 of the Clean Air Act (42 U.S.C. 7413)
18 and under section 309(d) of the Federal Water Pol-
19 lution Control Act (33 U.S.C. 1319(d)) shall be
20 available, without further appropriation, to fund co-
21 operative agreements and revolving loan funds au-
22 thorized in this section.

23 (11) ALLOCATION OF FUNDS.—

24 (A) IN GENERAL.—The Secretary shall—

1 (i) allocate 15 percent of available
2 funds for Cooperative agreements as speci-
3 fied under subsection (a), and

4 (ii) allocate 85 percent of available
5 funds for State revolving loan programs as
6 specified under subsection (b), after deter-
7 mining that States have implemented a
8 system to administer the loans in accord-
9 ance with this Act.

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