

Healthy Forests Restoration Act: Summary and Analysis

Title I – Hazardous Fuel Reduction on Federal Land

Important Definitions:

At-risk Community – Community with 3 or more structures per acre with local fire protection, and abutting wildland fuels; or a community with 250 people or more per square mile. Also includes...

- Homes and structures with basic infrastructure within or adjacent to Federal land
- Area where there is a significant threat to human life or property from wildland fire events

Wildland-Urban Interface (WUI) - Area within or adjacent to an at-risk community that is identified in a community wildfire protection plan

- If no community wildfire protection plan is in place...
 - Area extending ½ mile from at-risk community, area within 1½ miles from at-risk community where there are steep slopes, geographic features for fire breaks, or if condition class 3 has been documented in a project-specific environmental analysis, or area required for safe evacuation

Authorized Hazardous Fuels Reduction Project - Hazardous fuels reduction methods including prescribed fire, wildland fire use, crushing, tractor and hand piling, thinning and pruning.

Community Wildfire Protection Plan (CWPP) - Identifies and prioritizes areas and methods of treatment. The plan must be agreed to by the local government, local fire department, State forest management agency, and applicable Federal land management agencies.

Important Limits and Authorizations:

- \$760 million has been authorized to be appropriated for each fiscal year for hazardous fuels activities *and* grants to outside parties for activities authorized by law
- There is an acreage limitation of 20 million acres of Federal land
- At least 50% of appropriated funds for hazardous fuels reduction projects in WUI areas at the national scale

Old Growth:

- Existing old growth management directions will be implemented, review is required if older than 12/15/1993
- Projects in old growth stands should focus 'largely on small diameter trees, thinning, strategic fuel breaks, and prescribed fire...', and maximize retention of large trees

Monitoring:

- Monitoring required within each region within 5 years of enactment, and every 5 years thereafter
 - Report recommendations must be incorporated into future projects
 - 'Where significant interest is expressed' multiparty monitoring with diverse stakeholders is required

NEPA Compliance:

- *In General* - For proposed hazardous fuels reduction projects, the proposed agency action, the alternative of no action, and an additional action alternative are required.
- *Alternative analysis for WUI projects* – proposed projects in the WUI have different NEPA requirements
 - Proposed projects within 1½ miles from at-risk community only require the development of a proposed agency action. If there is an existing community wildfire protection plan alternative, however, it must be evaluated as an alternative to the proposed agency action.
 - Proposed projects in the WUI require a proposed agency action and one action alternative

Administrative Review:

- Secretary shall create a predecisional administrative review process within 30 days of enactment
- Submitted written comments during the public scoping or comment period are required to be eligible

- Civil action may be brought in Federal court only if the administrative review process has been exhausted

Judicial Review:

- Injunctives and stays pending appeal cannot exceed 60 days, but they can be renewed
- Courts must consider short- and long-term effects of not undertaking the agency action

This title may provide potential opportunities for re-focusing resources of existing CF programs that promote utilization of small-diameter trees and biomass. Title also calls for carrying out authorized activities through grants to traditional CF partners.

Title II – Biomass

Section 201 – Amends Section 307 of the Biomass Research and Development Act of 2000 and adds \$5 million of authorized funding for research in evaluating forest treatment and production alternatives including,

- Developing tools to better estimate biomass delivery costs and stumpage for mixed wood products
- Developing inexpensive thinning systems and equipment to minimize adverse effects on the land, and adaptable to varied landscapes, terrains, and sizes of trees
- Developing and implementing training for forestry managers and community developers
- Changes will require working with NRCS, DOE, FSR, NFS, NAPFSC, CSREES, USDA-RD, and others to develop appropriate RFP criteria in addition to those existing for the 2000 Biomass Act

Section 202 – Amends Section 2371 of the Food, Agriculture, Conservation and Trade Act of 1990 and authorizes an additional \$5 million between 2004 through 2008 for accelerating adoption of technologies using biomass and small-diameter materials by

- Creating community-based enterprises through marketing and demonstration projects
- Establishing small business enterprises
- This section is very specific to the S&PF Technology Marketing Unit at the Forest Products Laboratory, it will require extensive rule making for technology transfer work in the areas of FPC&R, WIT, State U&M, FPL-TMU, University U&M, TT centers, as well as partner groups such as NASF, RC&Ds, NNFP, AF&PA, USDA-RD, SBA, DOE, and EPA.

Section 203 – \$5 million authorized through 2004 – 2008 for grants to offset facility biomass purchase costs

- Requires extensive rulemaking with key partners to determine allocation of funds and eligibility

Title III – Watershed Forestry Assistance

Section 302 – Amends the Cooperative Forestry Assistance Act of 1978 to include a new section (section 6)

- Watershed Forestry Assistance Program – \$15 million authorized for each year 2004 - 2008
 - Includes technical assistance and cost share programs for private forestlands to be delivered in collaboration with State Foresters
 - At least 75% of authorized to be spent on cost-share, the rest on technical assistance
 - Focus is on planting trees for water quality, community involvement, dissemination of forest resource data, watershed-scale management, buffers, and wetland restoration
 - Funds for cost-share may not exceed 75 percent of project cost. Another 15 percent of the cost may be met by using other Federal funds, or may include in-kind contributions.
 - Legislation names list of criteria for distributing funds among states
 - Requires regulations for a Program of Technical Assistance, and Watershed Forestry Cost-share Program
 - Program of Technical Assistance
 - Work with partners (especially NASF) to develop core team for program development
 - No state plans required – determine how to document state participation
 - Watershed Forestry Cost-Share Program
 - Outline acceptable cost-share practices, eligibility requirements, and allocation factors
 - Create guidelines for determining priority watersheds
 - Develop criteria to measure successful watershed forestry projects
 - Define responsibilities and state eligibility for state watershed or BMP forester position

Section 303 – Authorizes \$2.5 million for each year from 2004 to 2008 for technical assistance and cost-share programs to address watershed issues on tribal lands

- Section 303 has the same provisions as 302, but the key difference is that CF will be working with Indian tribes instead of state foresters. As such, CF will have to work closely with the Forest Service tribal liaison and tribes to establish regulations that can satisfactorily implement these programs.

Title IV – Insect Infestations and Related Diseases

Section 403

- Promotes data collection and evaluation of insect infestation prevention and suppression, their effects, ecosystem restoration of stricken areas, utilization of infested trees, and prediction of outbreaks.
- Calls for assistance to improve forest health against insects and disease by working in collaboration with educational organizations; Federal, State, and local agencies; and private and industrial landowners.
- Primary roles and responsibilities for implementation would mainly fall on S&PF Forest Health Protection (FHP) and R&D staffs. CF may get involved to work with State and private lands for implementing applied silvicultural assessments, landowner education, targeting landowners in high-risk areas, and additional cost-share assistance. This would mean integrating insect infestation and disease treatment and prevention goals into existing CF programs. For example, Forest Stewardship funding can be used for landowner education and creation of management plans that guard against these threats. Also, Rural Forestry Assistance Funds and FLEP could be used to carry out silvicultural assessments or insect and disease treatments identified in private landowner management plans.

Section 404 – Funds authorized 2004 to 2008 for applied silvicultural assessments on Federal lands

- Treatments under 1,000 acres may be categorically excluded from NEPA
- Treated lands categorically excluded cannot exceed 250,000 acres

Title V – Healthy Forests Reserve Program

- Establishes a private lands reserve program for willing landowners to create restoration plans to protect threatened and endangered species, restore and enhance biodiversity, and enhance carbon sequestration
 - \$25,000,000 authorized for 2004. No limit on funding authorizations for 2005 – 2008.
 - Not more than 2,000,000 acres will be enrolled in the program
 - Cost-share may contribute to pay fair market value for conservation easements and implementation of approved conservation practices
 - 75% - 100% cost-share for easements up to 99 years
 - up to 75% cost-share for 30-year easements
 - up to 50% cost-share for 10-year easements
 - Technical assistance and safe harbor agreements may be provided to private forest landowners
 - Secretary of Agriculture must work with Interior and Commerce to define eligible forest ecosystems
- Regulations required to clarify roles between Federal (i.e. USDA, FWS, NMFS) and State (fish and wildlife, forestry, environmental quality) agencies, and to ensure compatibility with existing ESA regulations. CF may be asked to contribute guidance to more clearly specify cost-share requirements for each land enrollment option. Other considerations include a method to allocate funds between enrollment costs, restoration plan development and implementation, and technical assistance. Also required will be the development of cost effectiveness methodology to determine enrollment priorities and contribute to outcome measures.

Title VI – Miscellaneous (Forest Stands Inventory and Monitoring Program)

- Authorizes \$5 million each year from 2004 to 2008 to establish a program to inventory, monitor, characterize, and assess National Forest System and participating private forest lands for early detection of forest threats, prevention of forestland degradation, and quantification of carbon uptake rates.
- Early warning system to be made to isolate potential catastrophic forest threats and prevent epidemics.
- CF may be responsible for working with States for obtaining the consent of private forest landowners for inventories. The data generated by this work may also have significant impacts on the delivery of CF programs. For example, landowner and Rural Forestry Assistance efforts may be refocused to address specific 'potential catastrophic environmental threats.