

(A) in which historically there have been low-severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low elevation forests of pine, oak, or pinyon juniper.

(9) Fire regime II

The term “fire regime II” means an area—

(A) in which historically there are stand replacement severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low- to mid-elevation rangeland, grassland, or shrubland.

(10) Fire regime III

The term “fire regime III” means an area—

(A) in which historically there are mixed severity fires with a frequency of 35 through 100 years; and

(B) that is located primarily in forests of mixed conifer, dry Douglas fir, or wet Ponderosa pine.

(11) Implementation Plan

The term “Implementation Plan” means the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the conference report to accompany the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report No. 106-64)¹ (and subsequent revisions).

(12) Municipal water supply system

The term “municipal water supply system” means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water.

(13) Resource management plan

The term “resource management plan” means—

(A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in section 6502(1)(A) of this title under section 1604 of this title; or

(B) a land use plan prepared for 1 or more units of the public land described in section 6502(1)(B) of this title under section 1712 of title 43.

(14) Secretary

The term “Secretary” means—

(A) the Secretary of Agriculture, with respect to land of the National Forest System described in section 6502(1)(A) of this title; and

(B) the Secretary of the Interior, with respect to public lands described in section 6502(1)(B) of this title.

(15) Threatened and endangered species habitat

The term “threatened and endangered species habitat” means Federal land identified in—

(A) a determination that a species is an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) a designation of critical habitat of the species under that Act; or

(C) a recovery plan prepared for the species under that Act.

(16) Wildland-urban interface

The term “wildland-urban interface” means—

(A) an area within or adjacent to an at-risk community that is identified in recommendations to the Secretary in a community wildfire protection plan; or

(B) in the case of any area for which a community wildfire protection plan is not in effect—

(i) an area extending ½-mile from the boundary of an at-risk community;

(ii) an area within 1½ miles of the boundary of an at-risk community, including any land that—

(I) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community;

(II) has a geographic feature that aids in creating an effective fire break, such as a road or ridge top; or

(III) is in condition class 3, as documented by the Secretary in the project-specific environmental analysis; and

(iii) an area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuel reduction to provide safer evacuation from the at-risk community.

(Pub. L. 108-148, title I, §101, Dec. 3, 2003, 117 Stat. 1889; Pub. L. 115-141, div. O, title II, §203, Mar. 23, 2018, 132 Stat. 1064.)

Editorial Notes

REFERENCES IN TEXT

The Department of the Interior and Related Agencies Appropriations Act, 2001, referred to in pars. (1)(A)(i) and (11), is Pub. L. 106-291, Oct. 11, 2000, 114 Stat. 922. Title IV of the act is not classified to the Code. For complete classification of this Act to the Code, see Tables.

House Report No. 106-64, referred to in par. (11), does not exist. However, there was a House Report No. 106-646 that accompanied H.R. 4578, which became the Department of the Interior and Related Agencies Appropriations Act, 2001. The conference report that accompanied H.R. 4578 was H. Rept. 106-914.

The Endangered Species Act of 1973, referred to in par. (15), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

AMENDMENTS

2018—Par. (2). Pub. L. 115-141 designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

§ 6512. Authorized hazardous fuel reduction projects

(a) Authorized projects

As soon as practicable after December 3, 2003, the Secretary shall implement authorized haz-

¹ See References in Text note below.

ardous fuel reduction projects, consistent with the Implementation Plan, on—

(1) Federal land in wildland-urban interface areas;

(2) condition class 3 Federal land, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(3) condition class 2 Federal land located within fire regime I, fire regime II, or fire regime III, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(4) Federal land on which windthrow or blowdown, ice storm damage, the existence of an epidemic of disease or insects, or the presence of such an epidemic on immediately adjacent land and the imminent risk it will spread, poses a significant threat to an ecosystem component, or forest or rangeland resource, on the Federal land or adjacent non-Federal land; and

(5) Federal land not covered by paragraphs (1) through (4) that contains threatened and endangered species habitat, if—

(A) natural fire regimes on that land are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in a species recovery plan prepared under section 1533 of this title, or a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat;

(B) the authorized hazardous fuel reduction project will provide enhanced protection from catastrophic wildfire for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(C) the Secretary complies with any applicable guidelines specified in any management or recovery plan described in subparagraph (A).

(b) Relation to agency plans

An authorized hazardous fuel reduction project shall be conducted consistent with the resource management plan and other relevant administrative policies or decisions applicable to the Federal land covered by the project.

(c) Acreage limitation

Not more than a total of 20,000,000 acres of Federal land may be treated under authorized hazardous fuel reduction projects.

(d) Exclusion of certain Federal land

The Secretary may not conduct an authorized hazardous fuel reduction project that would occur on—

(1) a component of the National Wilderness Preservation System;

(2) Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress or Presidential proclamation (including the applicable implementation plan); or

(3) a Wilderness Study Area.

(e) Old growth stands

(1) Definitions

In this subsection and subsection (f):

(A) Applicable period

The term “applicable period” means—

(i) the 2-year period beginning on December 3, 2003; or

(ii) in the case of a resource management plan that the Secretary is in the process of revising as of December 3, 2003, the 3-year period beginning on December 3, 2003.

(B) Covered project

The term “covered project” means an authorized hazardous fuel reduction project carried out on land described in paragraph (1), (2), (3), or (5) of subsection (a).

(C) Management direction

The term “management direction” means definitions, designations, standards, guidelines, goals, or objectives established for an old growth stand under a resource management plan developed in accordance with applicable law, including section 1604(g)(3)(B) of this title.

(D) Old growth stand

The term “old growth stand” has the meaning given the term under management direction used pursuant to paragraphs (3) and (4), based on the structure and composition characteristic of the forest type, and in accordance with applicable law, including section 1604(g)(3)(B) of this title.

(2) Project requirements

In carrying out a covered project, the Secretary shall fully maintain, or contribute toward the restoration of, the structure and composition of old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure.

(3) Newer management direction

(A) In general

If the management direction for an old growth stand was established on or after December 15, 1993, the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project by implementing the management direction.

(B) Amendments or revisions

Any amendment or revision to management direction for which final administra-

tive approval is granted after December 3, 2003, shall be consistent with paragraph (2) for the purpose of carrying out covered projects.

(4) Older management direction

(A) In general

If the management direction for an old growth stand was established before December 15, 1993, the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project during the applicable period by implementing the management direction.

(B) Review required

Subject to subparagraph (C), during the applicable period for management direction referred to in subparagraph (A), the Secretary shall—

(i) review the management direction for affected covered projects, taking into account any relevant scientific information made available since the adoption of the management direction; and

(ii) amend the management direction for affected covered projects to be consistent with paragraph (2), if necessary to reflect relevant scientific information the Secretary did not consider in formulating the management direction.

(C) Review not completed

If the Secretary does not complete the review of the management direction in accordance with subparagraph (B) before the end of the applicable period, the Secretary shall not carry out any portion of affected covered projects in stands that are identified as old growth stands (based on substantial supporting evidence) by any person during scoping, within the period—

(i) beginning at the close of the applicable period for the management direction governing the affected covered projects; and

(ii) ending on the earlier of—

(I) the date the Secretary completes the action required by subparagraph (B) for the management direction applicable to the affected covered projects; or

(II) the date on which the acreage limitation specified in subsection (c) (as that limitation may be adjusted by a subsequent Act of Congress) is reached.

(5) Limitation to covered projects

Nothing in this subsection requires the Secretary to revise or otherwise amend a resource management plan to make the project requirements of paragraph (2) apply to an activity other than a covered project.

(f) Large tree retention

(1) In general

Except in old growth stands where the management direction is consistent with subsection (e)(2), the Secretary shall carry out a covered project in a manner that—

(A) focuses largely on small diameter trees, thinning, strategic fuel breaks, and prescribed fire to modify fire behavior, as

measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(B) maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands.

(2) Wildfire risk

Nothing in this subsection prevents achievement of the purposes described in section 6501(1) of this title.

(g) Monitoring and assessing forest and rangeland health

(1) In general

For each Forest Service administrative region and each Bureau of Land Management State Office, the Secretary shall—

(A) monitor the results of a representative sample of the projects authorized under this subchapter for each management unit; and

(B) not later than 5 years after December 3, 2003, and each 5 years thereafter, issue a report that includes—

(i) an evaluation of the progress towards project goals; and

(ii) recommendations for modifications to the projects and management treatments.

(2) Consistency of projects with recommendations

An authorized hazardous fuel reduction project approved following the issuance of a monitoring report shall, to the maximum extent practicable, be consistent with any applicable recommendations in the report.

(3) Similar vegetation types

The results of a monitoring report shall be made available for use (if appropriate) in an authorized hazardous fuels reduction project conducted in a similar vegetation type on land under the jurisdiction of the Secretary.

(4) Monitoring and assessments

Monitoring and assessment shall include a description of the changes in condition class, using the Fire Regime Condition Class Guidebook or successor guidance, specifically comparing end results to—

(A) pretreatment conditions;

(B) historical fire regimes; and

(C) any applicable watershed or landscape goals or objectives in the resource management plan or other relevant direction.

(5) Multiparty monitoring

(A) In general

In an area where significant interest is expressed in multiparty monitoring, the Secretary shall establish a multiparty monitoring, evaluation, and accountability process in order to assess the positive or negative ecological and social effects of authorized hazardous fuel reduction projects and projects conducted pursuant to section 6554 of this title.

(B) Diverse stakeholders

The Secretary shall include diverse stakeholders (including interested citizens and In-

dian tribes) in the process required under subparagraph (A).

(C) Funding

Funds to carry out this paragraph may be derived from operations funds for projects described in subparagraph (A).

(6) Collection of monitoring data

The Secretary may collect monitoring data by entering into cooperative agreements or contracts with, or providing grants to, small or micro-businesses, cooperatives, nonprofit organizations, Youth Conservation Corps work crews, or related State, local, and other non-Federal conservation corps.

(7) Tracking

For each administrative unit, the Secretary shall track acres burned, by the degree of severity, by large wildfires (as defined by the Secretary).

(8) Monitoring and maintenance of treated areas

The Secretary shall, to the maximum extent practicable, develop a process for monitoring the need for maintenance of treated areas, over time, in order to preserve the forest health benefits achieved.

(Pub. L. 108-148, title I, §102, Dec. 3, 2003, 117 Stat. 1892.)

§ 6513. Prioritization

(a) In general

In accordance with the Implementation Plan, the Secretary shall develop an annual program of work for Federal land that gives priority to authorized hazardous fuel reduction projects that provide for the protection of at-risk communities or watersheds or that implement community wildfire protection plans.

(b) Collaboration

(1) In general

The Secretary shall consider recommendations under subsection (a) that are made by at-risk communities that have developed community wildfire protection plans.

(2) Exemption

Chapter 10 of title 5 shall not apply to the planning process and recommendations concerning community wildfire protection plans.

(c) Administration

(1) In general

Federal agency involvement in developing a community wildfire protection plan, or a recommendation made in a community wildfire protection plan, shall not be considered a Federal agency action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Compliance

In implementing authorized hazardous fuel reduction projects on Federal land, the Secretary shall, in accordance with section 6514 of this title, comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) Funding allocation

(1) Federal land

(A) In general

Subject to subparagraph (B), the Secretary shall use not less than 50 percent of the funds allocated for authorized hazardous fuel reduction projects in the wildland-urban interface.

(B) Applicability and allocation

The funding allocation in subparagraph (A) shall apply at the national level. The Secretary may allocate the proportion of funds differently than is required under subparagraph (A) within individual management units as appropriate, in particular to conduct authorized hazardous fuel reduction projects on land described in section 6512(a)(4) of this title.

(C) Wildland-urban interface

In the case of an authorized hazardous fuel reduction project for which a decision notice is issued during the 1-year period beginning on December 3, 2003, the Secretary shall use existing definitions of the term “wildland-urban interface” rather than the definition of that term provided under section 6511 of this title.

(2) Non-Federal land

(A) In general

In providing financial assistance under any provision of law for hazardous fuel reduction projects on non-Federal land, the Secretary shall consider recommendations made by at-risk communities that have developed community wildfire protection plans.

(B) Priority

In allocating funding under this paragraph, the Secretary should, to the maximum extent practicable, give priority to communities that have adopted a community wildfire protection plan or have taken proactive measures to encourage willing property owners to reduce fire risk on private property.

(e) Cross-boundary hazardous fuel reduction projects

(1) Definitions

In this subsection:

(A) Hazardous fuel reduction project

The term “hazardous fuel reduction project” means a hazardous fuel reduction project described in paragraph (2).

(B) Non-Federal land

The term “non-Federal land” includes—

- (i) State land;
- (ii) county land;
- (iii) Tribal land;
- (iv) private land; and
- (v) other non-Federal land.

(2) Grants

The Secretary may make grants to State foresters to support hazardous fuel reduction projects that incorporate treatments in land-