

Public Law 108–317
108th Congress

An Act

Oct. 5, 2004
[H.R. 2696]

To establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West.

Southwest Forest
Health and
Wildfire
Prevention Act of
2004.
Arizona.
New Mexico.
16 USC 6701
note.
16 USC 6701.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Southwest Forest Health and Wildfire Prevention Act of 2004”.

SEC. 2. FINDINGS.

Congress finds that—

(1) there is an increasing threat of wildfire to millions of acres of forest land and rangeland throughout the United States;

(2) forest land and rangeland are degraded as a direct consequence of land management practices, including practices to control and prevent wildfires and the failure to harvest subdominant trees from overstocked stands that disrupt the occurrence of frequent low-intensity fires that have periodically removed flammable undergrowth;

(3) at least 39,000,000 acres of land of the National Forest System in the interior West are at high risk of wildfire;

(4) an average of 95 percent of the expenditures by the Forest Service for wildfire suppression during fiscal years 1990 through 1994 were made to suppress wildfires in the interior West;

(5) the number, size, and severity of wildfires in the interior West are increasing;

(6) of the timberland in National Forests in the States of Arizona and New Mexico, 59 percent of such land in Arizona, and 56 percent of such land in New Mexico, has an average diameter of 9 to 12 inches diameter at breast height;

(7) the population of the interior West grew twice as fast as the national average during the 1990s;

(8) catastrophic wildfires—

(A) endanger homes and communities;

(B) damage and destroy watersheds and soils; and

(C) pose a serious threat to the habitat of threatened and endangered species;

(9) a 1994 assessment of forest health in the interior West estimated that only a 15- to 30-year window of opportunity exists for effective management intervention before damage

from uncontrollable wildfire becomes widespread, with 8 years having already elapsed since the assessment;

(10) healthy forest and woodland ecosystems—

(A) reduce the risk of wildfire to forests and communities;

(B) improve wildlife habitat and biodiversity;

(C) increase tree, grass, forb, and shrub productivity;

(D) enhance watershed values;

(E) improve the environment; and

(F) provide a basis in some areas for economically and environmentally sustainable uses;

(11) sustaining the long-term ecological and economic health of interior West forests and woodland, and their associated human communities requires preventing severe wildfires before the wildfires occur and permitting natural, low-intensity ground fires;

(12) more natural fire regimes cannot be accomplished without the reduction of excess fuels and thinning of subdominant trees (which fuels and trees may be of commercial value);

(13) ecologically based forest and woodland ecosystem restoration on a landscape scale will—

(A) improve long-term community protection;

(B) minimize the need for wildfire suppression;

(C) improve resource values;

(D) improve the ecological integrity and resilience of these systems;

(E) reduce rehabilitation costs;

(F) reduce loss of critical habitat; and

(G) protect forests for future generations;

(14) although landscape scale restoration is needed to effectively reverse degradation, scientific understanding of landscape scale treatments is limited;

(15) rigorous, objective, understandable, and applied scientific information is needed for—

(A) the design, implementation, monitoring, and adaptation of landscape scale restoration treatments and improvement of wildfire management;

(B) the environmental review process; and

(C) affected entities that collaborate in the development and implementation of wildfire treatment.

SEC. 3. PURPOSES.

16 USC 6702.

The purposes of this Act are—

(1) to enhance the capacity to develop, transfer, apply, monitor, and regularly update practical science-based forest restoration treatments that will reduce the risk of severe wildfires, and improve the health of dry forest and woodland ecosystems in the interior West;

(2) to synthesize and adapt scientific findings from conventional research programs to the implementation of forest and woodland restoration on a landscape scale;

(3) to facilitate the transfer of interdisciplinary knowledge required to understand the socioeconomic and environmental impacts of wildfire on ecosystems and landscapes;

(4) to require the Institutes established under this Act to collaborate with Federal agencies—

(A) to use ecological restoration treatments to reverse declining forest health and reduce the risk of severe wildfires across the forest landscape; and

(B) to design, implement, monitor, and regularly revise representative wildfire treatments based on the use of adaptive ecosystem management;

(5) to assist land managers in—

(A) treating acres with restoration-based applications; and

(B) using new management technologies (including the transfer of understandable information, assistance with environmental review, and field and classroom training and collaboration) to accomplish the goals identified in—

(i) the National Fire Plan;

(ii) the report entitled “Protecting People and Sustaining Resources in Fire-Adapted Ecosystems-A Cohesive Strategy” (65 Fed. Reg. 67480); and

(iii) the report entitled “10-Year Comprehensive Strategy: A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment” of the Western Governors’ Association;

(6) to provide technical assistance to collaborative efforts by affected entities to develop, implement, and monitor adaptive ecosystem management restoration treatments that are ecologically sound, economically viable, and socially responsible; and

(7) to assist Federal and non-Federal land managers in providing information to the public on the role of fire and fire management in dry forest and woodland ecosystems in the interior West.

16 USC 6703.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADAPTIVE ECOSYSTEM MANAGEMENT.—

(A) DEFINITION.—The term “adaptive ecosystem management” means a natural resource management process under which planning, implementation, monitoring, research, evaluation, and incorporation of new knowledge are combined into a management approach that—

(i) is based on scientific findings and the needs of society;

(ii) treats management actions as experiments;

(iii) acknowledges the complexity of these systems and scientific uncertainty; and

(iv) uses the resulting new knowledge to modify future management methods and policy.

(B) CLARIFICATION.—This paragraph shall not define the term “adaptive ecosystem management” for the purposes of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(2) AFFECTED ENTITIES.—The term “affected entities” includes—

(A) land managers;

(B) stakeholders;

(C) concerned citizens; and

(D) the States of the interior West, including political subdivisions of the States.

(3) DRY FOREST AND WOODLAND ECOSYSTEM.—The term “dry forest and woodland ecosystem” means an ecosystem that is dominated by ponderosa pines and associated dry forest and woodland types.

(4) INSTITUTE.—The term “Institute” means an Institute established under section 5(a).

(5) INTERIOR WEST.—The term “interior West” means the States of Arizona, Colorado, Idaho, Nevada, New Mexico, and Utah.

(6) LAND MANAGER.—

(A) IN GENERAL.—The term “land manager” means a person or entity that practices or guides natural resource management.

(B) INCLUSIONS.—The term “land manager” includes a Federal, State, local, or tribal land management agency.

(7) RESTORATION.—The term “restoration” means a process undertaken to move an ecosystem or habitat toward—

(A) a sustainable structure of the ecosystem or habitat;

or

(B) a condition that supports a natural complement of species, natural function, or ecological process (such as a low-intensity fire).

(8) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(9) SECRETARIES.—The term “Secretaries” means—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) the Secretary of the Interior.

(10) STAKEHOLDER.—The term “stakeholder” means any person interested in or affected by management of forest or woodland ecosystems.

(11) SUBDOMINANT TREES.—Are trees that occur underneath the canopy or extend into the canopy but are smaller and less vigorous than dominant trees.

(12) OVERSTOCKED STANDS.—Where the number of trees per acre exceeds the natural carrying capacity of the site.

(13) RESILIENCE.—The ability of a system to absorb disturbance without being pushed into a different, possibly less desirable stable state.

SEC. 5. ESTABLISHMENT OF INSTITUTES.

16 USC 6704.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall—

(1) not later than 180 days after the date of enactment of this Act, establish Institutes to promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of forest and woodland ecosystems, in the interior West; and

Deadline.

(2) provide assistance to the Institutes to promote the use of collaborative processes and adaptive ecosystem management in accordance with paragraph (1).

(b) LOCATION.—

(1) EXISTING INSTITUTES.—The Secretary may designate an institute in existence on the date of enactment of this Act to serve as an Institute established under this Act.

(2) STATES.—Of the Institutes established under this Act, the Secretary shall establish 1 Institute in each of—

(A) the State of Arizona, to be located at Northern Arizona University;

(B) the State of New Mexico, to be located at New Mexico Highlands University, while engaging the full resources of the consortium of universities represented in the Institute of Natural Resource Analysis and Management (INRAM); and

(C) the State of Colorado.

(c) DUTIES.—Each Institute shall—

(1) develop, conduct research on, transfer, promote, and monitor restoration-based hazardous fuel reduction treatments to reduce the risk of severe wildfires and improve the health of dry forest and woodland ecosystems in the interior West;

(2) synthesize and adapt scientific findings from conventional research to implement restoration-based hazardous fuel reduction treatments on a landscape scale using an adaptive ecosystem management framework;

(3) translate for and transfer to affected entities any scientific and interdisciplinary knowledge about restoration-based hazardous fuel reduction treatments;

(4) assist affected entities with the design of adaptive management approaches (including monitoring) for the implementation of restoration-based hazardous fuel reduction treatments; and

(5) provide peer-reviewed annual reports.

(d) QUALIFICATIONS.—Each Institute shall—

(1) develop and demonstrate capabilities in the natural, physical, social, and policy sciences; and

(2) explicitly integrate those disciplines in the performance of the duties listed in subsection (c).

(e) COOPERATION.—Each Institute may cooperate with—

(1) researchers and cooperative extension programs at colleges, community colleges, and universities in the States of Arizona, New Mexico, and Colorado that have a demonstrated capability to conduct research described in subsection (c); and

(2) other organizations and entities in the interior West (such as the Western Governors' Association).

(f) ANNUAL WORK PLANS.—As a condition of the receipt of funds made available under this Act, for each fiscal year, each Institute shall develop in consultation with the Secretary, for review by the Secretary, in consultation with the Secretary of the Interior, an annual work plan that includes assurances, satisfactory to the Secretaries, that the proposed work of the Institute will serve the informational needs of affected entities.

(g) ESTABLISHMENT OF ADDITIONAL INSTITUTES.—If after 2 years after the date of the enactment of this Act, the Secretary finds that the Institute model established at the locations named in subsection (b)(2) would be constructive for other interior West States, the Secretary may establish 1 institute in each of those States.

SEC. 6. COOPERATION BETWEEN INSTITUTES AND FEDERAL AGENCIES.

In carrying out this Act, the Secretary, in consultation with the Secretary of the Interior—

(1) to the extent that funds are appropriated for the purpose, shall provide financial and technical assistance to the

Institutes to carry out the duties of the Institutes under section 5;

(2) shall encourage Federal agencies to use, on a cooperative basis, information and expertise provided by the Institutes;

(3) shall encourage cooperation and coordination between Federal programs relating to—

- (A) ecological restoration;
- (B) wildfire risk reduction; and
- (C) wildfire management technologies;

(4) notwithstanding chapter 63 of title 31, United States Code, may—

(A) enter into contracts, cooperative agreements, and interagency personnel agreements to carry out this Act; and

(B) carry out other transactions under this Act;

(5) may accept funds from other Federal agencies to supplement or fully fund grants made, and contracts entered into, by the Secretaries;

(6) may support a program of internships for qualified individuals at the undergraduate and graduate levels to carry out the educational and training objectives of this Act;

(7) shall encourage professional education and public information activities relating to the purposes of this Act; and

(8) may promulgate such regulations as the Secretaries determine are necessary to carry out this Act.

SEC. 7. MONITORING AND EVALUATION.

16 USC 6706.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall complete and submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a detailed evaluation of the programs and activities of each Institute—

Deadline.

(1) to ensure, to the maximum extent practicable, that the research, communication tools, and information transfer activities of each Institute are sufficient to achieve the purposes of this Act, including—

- (A) implementing active adaptive ecosystem management practices at the landscape level;
- (B) reducing unnecessary planning costs;
- (C) avoiding duplicative and conflicting efforts;
- (D) increasing public acceptance of active adaptive ecosystem management practices; and
- (E) achieving general satisfaction on the part of affected entities;

(2) to determine the extent to which each Institute has implemented its duties under section 5(c); and

(3) to determine whether continued provision of Federal assistance to each Institute is warranted.

(b) TERMINATION OF ASSISTANCE.—If, as a result of an evaluation under subsection (a), the Secretary, in consultation with the Secretary of the Interior, determines that an Institute does not qualify for further Federal assistance under this Act, the Institute shall receive no further Federal assistance under this Act until such time as the qualifications of the Institute are reestablished to the satisfaction of the Secretaries.

16 USC 6707.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this Act \$15,000,000 for each fiscal year.

(b) **LIMITATION.**—No funds made available under subsection (a) shall be used to pay the costs of constructing any facilities.

Approved October 5, 2004.

LEGISLATIVE HISTORY—H.R. 2696:

HOUSE REPORTS: No. 108-397, Pt. 1 (Comm. on Resources).

SENATE REPORTS: No. 108-252 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 149 (2004):

Feb. 24, considered and passed House.

Sept. 15, considered and passed Senate.