

**Senate Committee on Agriculture, Nutrition, and Forestry**  
**Section by Section Summary of Substitute for HR 1904**

**SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

Gives the Act a short title of “Healthy Forests Restoration Act of 2003.” Lists table of contents.

**SEC. 2. PURPOSES.**

Lists the purposes of this Act, including: to reduce wildfire risk to communities, municipal water supplies and other at-risk federal lands through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects; to authorize grant programs to improve the commercial value of forest biomass; to enhance efforts to protect watersheds and address threats to forest and rangeland health; to promote systematic information gathering to address the impacts of insects, disease and other damaging agents on forest and rangeland health; to improve the capacity to detect insect and disease infestations at an early stage; and to promote the recovery of threatened and endangered species, improve biological diversity and enhance carbon sequestration.

**SEC. 3. DEFINITIONS.**

Defines the terms: federal land, Indian tribe

**TITLE I – HAZARDOUS FUEL REDUCTION ON FEDERAL LAND**

**SEC. 101. DEFINITIONS.**

Defines the terms: at-risk community, authorized hazardous fuel reduction project, community wildfire protection plan, condition class 2, condition class 3, day, decision document, fire regime I, fire regime II, fire regime III, implementation plan, municipal water supply system, resource management plan, Secretary, threatened and endangered species habitat, wildland-urban interface.

**SEC. 102. AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECTS.**

Allows for authorized hazardous fuel reduction projects on federal lands that: (1) are in wildland-urban interface areas, (2) are condition class 3 and located in proximity to a municipal watershed or water supply system with significant risk that a wildfire would adversely effect water quality or the system, (3) are condition class 2 within fire regime I, fire regime II or fire regime III within a municipal watershed or in proximity to a municipal water supply system or a stream feeding such a system with a significant risk that wildfire would adversely effect water quality or maintenance of the system, (4) are identified as an area where windthrow, blowdown, ice storm damage, or the existence of insects or disease poses a significant threat to an ecosystem component, or forest or rangeland resource on federal land or adjacent non-federal land, or (5) contain threatened and endangered species habitat, if: the natural fire regimes are important for, or wildfire is a threat to threatened or endangered species or their habitat; the authorized hazardous fuel reduction project will enhance protection from catastrophic wildfire, and; the

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

Requires authorized hazardous fuel reduction projects to be consistent with land and resource management plans and other administrative policies or decisions applicable to the federal land.

Limits the acreage available for authorized hazardous fuel reduction projects to 20,000,000 acres.

Prohibits the Secretary concerned from conducting an authorized hazardous fuels reduction project on the following federal lands: a component of the National Wilderness Preservation System, federal lands where the removal of vegetation is prohibited or restricted by Congress or a presidential proclamation, or wilderness study areas.

Provides direction for projects that may occur within old growth stands. Defines a covered project as an authorized hazardous fuel reduction project carried out within the wildland-urban interface, on condition class 2 and 3 lands as defined above and on lands that contain threatened and endangered species habitat as defined above. Identifies “standards” for old growth as the definitions, designations, standards, guidelines, goals, or objectives established for an old growth stand under a resource management plan, based on the structure and composition characteristic of the forest type, and in accordance with applicable law.

Requires the Secretary to fully maintain, or contribute toward the restoration of the structure and composition of structurally complex old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, while considering the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure.

Directs that old growth standards that are 10 years old or less from the date of enactment of this Act (newer standards) shall be used by the Secretary in carrying out a covered project. Any amendment or revision to standards for which final administrative approval is granted after the date of enactment of this Act shall be consistent with the characteristics of old growth described above. Old growth standards established before the 10-year period (older standards) may be used for a 2-year period beginning on the date of enactment of this Act, or if in the process of revising a resource management plan, may be used for a 3-year period. Older standards shall be reviewed and revised, if necessary, to reflect relevant information not considered in formulating the resource management plan. If such review is not completed within the appropriate time period, no covered project shall occur in an old growth stand, that is identified as an old growth stand (based on substantial supporting evidence) by any person during scoping.

Directs that a person may bring civil action based on standards for an old growth stand under a resource management plan only by challenging a plan amendment, plan revision,

or project implementing the plan's standards, in accordance with applicable provisions of law.

Directs covered projects outside of old growth stands to focus 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; and, maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resistant stands.

Provides direction for monitoring and assessing forest and rangeland health. Directs each Forest Service region and BLM State Office to monitor the results of authorized hazardous fuels reduction projects, and submit a report not later than 5 years after enactment of this Act, and each 5 years thereafter. Reports shall include an evaluation of the progress towards project goals and recommendations for modifications to the projects and management treatments. Subsequent projects shall be consistent, as appropriate, with recommendations made in monitoring reports. A representative sample of authorized hazardous fuel reduction projects, for each management unit, shall include a description of the effects on changes in condition class, specifically comparing end results to; the pretreatment conditions, historical fire regimes, and any applicable watershed or landscape goals or objectives in the resource management plan. For each management unit, track acres burned, by the degree of severity, by large wildfires. Develop a process for monitoring the need for maintenance of treated areas, over time, in order to preserve the forest health benefits achieved.

### **SEC. 103. PRIORITIZATION.**

Directs the Secretary to develop an annual program of work that gives priority to authorized hazardous fuel reduction projects that provide for protection of at-risk communities or watersheds or that implement community wildfire protection plans.

Directs that the Federal Advisory Committee Act shall not apply to the planning process and recommendations concerning community wildfire protection plans.

Directs that federal agency involvement in a community wildfire protection plan, or a recommendation made in such plan shall not be considered a federal agency action under NEPA. However, implementation of authorized hazardous fuel reduction projects shall comply with NEPA.

Directs that not less than 50 percent of the funds allocated for authorized hazardous fuel reduction projects shall be used in the wildland-urban interface. Such allocation shall apply at the national level. However, funds may be allocated differently within individual management units as appropriate, in particular to conduct authorized hazardous fuel reduction projects in areas with insects, disease, windthrow, blowdown or ice storm damage.

In providing financial assistance for authorized 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.

**SEC. 104. ENVIRONMENTAL ANALYSIS.**

Directs the preparation of an environmental assessment (EA) or an environmental impact statement (EIS) for any authorized hazardous fuel reduction project. The EA or EIS shall describe; the proposed action, a no action alternative, and an additional action alternative, if the additional alternative is proposed during scoping or the collaborative process and meets the purpose and need of the project. If more than 1 additional alternative is proposed the Secretary shall select which additional alternative to consider and provide a written record describing the reasons for the selection.

Notice shall be given of each authorized hazardous fuel reduction project in accordance with applicable regulations and administrative guidelines. The public shall be given advance notice of a meeting to be conducted at an appropriate location; giving location, date and time of the meeting.

The Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of any EA or EIS for covered projects. The public shall have the opportunity to comment during the preparation of any EA or EIS for covered projects. A decision document shall be signed for any authorized hazardous fuel reduction project. The implementation of authorized hazardous fuel reduction projects shall be monitored.

**SEC. 105. SPECIAL ADMINISTRATIVE REVIEW PROCESS.**

Directs the Secretary of Agriculture to establish, within 30 days after the date of the enactment of this Act, interim final regulations to establish a pre-decisional administrative review process that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on National Forest System land. The pre-decisional review process period begins after completion of the EA or EIS and ends not later than the date of the final decision approving the project.

Final regulations for the administrative review process shall be promulgated after the interim final regulations have been published and reasonable time has been provided for public comment.

A person may bring civil action challenging an authorized hazardous fuel reduction project in a federal district court only if the person has challenged the authorized hazardous fuel reduction project by exhausting the administrative review process established by the Secretary of Agriculture, or the administrative hearings and appeals procedures established by the Department of the Interior.

An issue may be considered in the judicial review only if the issue was raised in an administrative review process.

**SEC. 106. JUDICIAL REVIEW IN UNITED STATES DISTRICT COURTS.**

Notwithstanding section 1391 of title 28, USC, or other applicable law, an authorized hazardous fuel reduction project shall be subject to judicial review only in the United States district court for the district in which the federal land to be treated is located.

Congress encourages the court to expedite the proceedings with the goal of rendering a final determination as soon as practicable.

Establishes the length of any preliminary injunctive relief and stays pending appeal covering an authorized hazardous fuel reduction project not exceed 60 days. A court may issue 1 or more renewals of such preliminary injunction or stay pending appeal. In each renewal, parties to the action shall present updated information on the status of the project.

Directs the court reviewing the project, as part of its weighing the equities while considering any request for an injunction, to balance the impact to the ecosystem likely affected by the project of the short- and long-term effects of undertaking the agency action against the short- and long-term effects of not undertaking the agency action.

**SEC. 107. EFFECT OF TITLE**

Clarifies that nothing in this title shall be construed to affect or limit the use of other authorities by the Secretary concerned to plan or conduct a hazardous fuels reduction project on federal lands that is not conducted using the process authorized by section 104 of this Act.

**SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

Directs the appropriation of \$760,000,000 for each fiscal year to conduct activities authorized by this title and other hazardous fuel reduction activities of the Secretary, including making grants to States for activities authorized by law.