

§ 6502. Definitions

In this chapter:

(1) Federal land

The term “Federal land” means—

(A) land of the National Forest System (as defined in section 1609(a) of this title) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 1702 of title 43), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) Indian tribe

The term “Indian tribe” has the meaning given the term in section 450b of title 25.

(Pub. L. 108-148, § 3, Dec. 3, 2003, 117 Stat. 1888.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 108-148, Dec. 3, 2003, 117 Stat. 1887, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of this title and Tables.

SUBCHAPTER I—HAZARDOUS FUEL
REDUCTION ON FEDERAL LAND**§ 6511. Definitions**

In this subchapter:

(1) At-risk community

The term “at-risk community” means an area—

(A) that is comprised of—

(i) an interface community as defined in the notice entitled “Wildland Urban Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire” issued by the Secretary of Agriculture and the Secretary of the Interior in accordance with title IV of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 1009) (66 Fed. Reg. 753, January 4, 2001); or

(ii) a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) within or adjacent to Federal land;

(B) in which conditions are conducive to a large-scale wildland fire disturbance event; and

(C) for which a significant threat to human life or property exists as a result of a wildland fire disturbance event.

(2) Authorized hazardous fuel reduction project

The term “authorized hazardous fuel reduction project” means the measures and methods described in the definition of “appropriate tools” contained in the glossary of the Implementation Plan, on Federal land described in section 6512(a) of this title and conducted under sections 6513 and 6514 of this title.

(3) Community wildfire protection plan

The term “community wildfire protection plan” means a plan for an at-risk community that—

(A) is developed within the context of the collaborative agreements and the guidance established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State agency responsible for forest management, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;

(B) identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect 1 or more at-risk communities and essential infrastructure; and

(C) recommends measures to reduce structural ignitability throughout the at-risk community.

(4) Condition class 2

The term “condition class 2”, with respect to an area of Federal land, means the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled “Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management” (RMRS-87), dated April 2000 (including any subsequent revision to the report), under which—

(A) fire regimes on the land have been moderately altered from historical ranges;

(B) there exists a moderate risk of losing key ecosystem components from fire;

(C) fire frequencies have increased or decreased from historical frequencies by 1 or more return intervals, resulting in moderate changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been moderately altered from the historical range of the attributes.

(5) Condition class 3

The term “condition class 3”, with respect to an area of Federal land, means the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (4) (including any subsequent revision to the report), under which—

(A) fire regimes on land have been significantly altered from historical ranges;

(B) there exists a high risk of losing key ecosystem components from fire;

(C) fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been significantly altered from the historical range of the attributes.

(6) Day

The term “day” means—

- (A) a calendar day; or
- (B) if a deadline imposed by this subchapter would expire on a nonbusiness day, the end of the next business day.

(7) Decision document

The term “decision document” means—

- (A) a decision notice (as that term is used in the Forest Service Handbook);
- (B) a decision record (as that term is used in the Bureau of Land Management Handbook); and
- (C) a record of decision (as that term is used in applicable regulations of the Council on Environmental Quality).

(8) Fire regime I

The term “fire regime I” means an area—

- (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) (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.)

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.

The Endangered Species Act of 1973, referred to in par. (15), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, 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.

§ 6512. Authorized hazardous fuel reduction projects

(a) Authorized projects

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

ember 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 administrative 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 sub-

section (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 Indian 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

The Federal Advisory Committee Act (5 U.S.C. App.) 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.

(Pub. L. 108–148, title I, §103, Dec. 3, 2003, 117 Stat. 1896.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6514. Environmental analysis

(a) Authorized hazardous fuel reduction projects

Except as otherwise provided in this subchapter, the Secretary shall conduct authorized hazardous fuel reduction projects in accordance with—

- (1) the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]; and
- (2) other applicable laws.

(b) Environmental assessment or environmental impact statement

The Secretary shall prepare an environmental assessment or an environmental impact statement pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for each authorized hazardous fuel reduction project.

(c) Consideration of alternatives

(1) In general

Except as provided in subsection (d), in the environmental assessment or environmental impact statement prepared under subsection (b), the Secretary shall study, develop, and describe—

- (A) the proposed agency action;
- (B) the alternative of no action; and
- (C) an additional action alternative, if the additional alternative—

(i) is proposed during scoping or the collaborative process under subsection (f); and

(ii) meets the purpose and need of the project, in accordance with regulations promulgated by the Council on Environmental Quality.

(2) Multiple additional alternatives

If more than 1 additional alternative is proposed under paragraph (1)(C), the Secretary shall—

- (A) select which additional alternative to consider, which is a choice that is in the sole discretion of the Secretary; and
- (B) provide a written record describing the reasons for the selection.

(d) Alternative analysis process for projects in wildland-urban interface

(1) Proposed agency action and 1 action alternative

For an authorized hazardous fuel reduction project that is proposed to be conducted in the wildland-urban interface, the Secretary is not required to study, develop, or describe more than the proposed agency action and 1 action alternative in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(2) Proposed agency action

Notwithstanding paragraph (1), but subject to paragraph (3), if an authorized hazardous fuel reduction project proposed to be conducted in the wildland-urban interface is located no further than 1½ miles from the boundary of an at-risk community, the Secretary is not required to study, develop, or de-

scribe any alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(3) Proposed agency action and community wildfire protection plan alternative

In the case of an authorized hazardous fuel reduction project described in paragraph (2), if the at-risk community has adopted a community wildfire protection plan and the proposed agency action does not implement the recommendations in the plan regarding the general location and basic method of treatments, the Secretary shall evaluate the recommendations in the plan as an alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(e) Public notice and meeting

(1) Public notice

The Secretary shall provide notice of each authorized hazardous fuel reduction project in accordance with applicable regulations and administrative guidelines.

(2) Public meeting

During the preparation stage of each authorized hazardous fuel reduction project, the Secretary shall—

(A) conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal land on which the authorized hazardous fuel reduction project will be conducted; and

(B) provide advance notice of the location, date, and time of the meeting.

(f) Public collaboration

In order to encourage meaningful public participation during preparation of authorized hazardous fuel reduction projects, the Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of each authorized fuel reduction project in a manner consistent with the Implementation Plan.

(g) Environmental analysis and public comment

In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines, the Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement for an authorized hazardous fuel reduction project.

(h) Decision document

The Secretary shall sign a decision document for authorized hazardous fuel reduction projects and provide notice of the final agency actions.

(Pub. L. 108-148, title I, §104, Dec. 3, 2003, 117 Stat. 1897.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1), is Pub. L. 91-190, Jan. 1, 1970,

83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6515. Special administrative review process

(a) Interim final regulations

(1) In general

Not later than 30 days after December 3, 2003, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process for the period described in paragraph (2) that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service land.

(2) Period

The predecisional administrative review process required under paragraph (1) shall occur during the period—

(A) beginning after the completion of the environmental assessment or environmental impact statement; and

(B) ending not later than the date of the issuance of the final decision approving the project.

(3) Eligibility

To be eligible to participate in the administrative review process for an authorized hazardous fuel reduction project under paragraph (1), a person shall submit to the Secretary, during scoping or the public comment period for the draft environmental analysis for the project, specific written comments that relate to the proposed action.

(4) Effective date

The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(b) Final regulations

The Secretary shall promulgate final regulations to establish the process described in subsection (a)(1) after the interim final regulations have been published and reasonable time has been provided for public comment.

(c) Administrative review

(1) In general

A person may bring a 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—

(A) the administrative review process established by the Secretary of Agriculture under this section; or

(B) the administrative hearings and appeals procedures established by the Department of the Interior.

(2) Issues

An issue may be considered in the judicial review of an action under section 6516 of this title only if the issue was raised in an administrative review process described in paragraph (1).

(3) Exception

(A) In general

An exception to the requirement of exhausting the administrative review process before seeking judicial review shall be available if a Federal court finds that the futility or inadequacy exception applies to a specific plaintiff or claim.

(B) Information

If an agency fails or is unable to make information timely available during the administrative review process, a court should evaluate whether the administrative review process was inadequate for claims or issues to which the information is material.

(Pub. L. 108–148, title I, §105, Dec. 3, 2003, 117 Stat. 1899.)

FOREST SERVICE PRE-DECISIONAL OBJECTION PROCESS

Pub. L. 112–74, div. E, title IV, §428, Dec. 23, 2011, 125 Stat. 1046, provided that: “Hereafter, upon issuance of final regulations, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall apply section 105(a) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6515(a)), providing for a pre-decisional objection process, to proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and documented with a Record of Decision or Decision Notice, in lieu of subsections (c), (d), and (e) of section 322 of Public Law 102–381 (16 U.S.C. 1612 note), providing for an administrative appeal process: *Provided*, That if the Chief of the Forest Service determines an emergency situation exists for which immediate implementation of a proposed action is necessary, the proposed action shall not be subject to the pre-decisional objection process, and implementation shall begin immediately after the Forest Service gives notice of the final decision for the proposed action: *Provided further*, That this section shall not apply to an authorized hazardous fuel reduction project under title I of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.) [probably should be 16 U.S.C. 6511 et seq.]”

§ 6516. Judicial review in United States district courts

(a) Venue

Notwithstanding section 1391 of title 28 or other applicable law, an authorized hazardous fuels reduction project conducted under this subchapter shall be subject to judicial review only in the United States district court for a district in which the Federal land to be treated under the authorized hazardous fuels reduction project is located.

(b) Expeditious completion of judicial review

In the judicial review of an action challenging an authorized hazardous fuel reduction project under subsection (a), Congress encourages a court of competent jurisdiction to expedite, to the maximum extent practicable, the proceedings in the action with the goal of rendering a final determination on jurisdiction, and (if jurisdiction exists) a final determination on the merits, as soon as practicable after the date on which a complaint or appeal is filed to initiate the action.

(c) Injunctions**(1) In general**

Subject to paragraph (2), the length of any preliminary injunctive relief and stays pending appeal covering an authorized hazardous fuel reduction project carried out under this subchapter shall not exceed 60 days.

(2) Renewal**(A) In general**

A court of competent jurisdiction may issue 1 or more renewals of any preliminary injunction, or stay pending appeal, granted under paragraph (1).

(B) Updates

In each renewal of an injunction in an action, the parties to the action shall present the court with updated information on the status of the authorized hazardous fuel reduction project.

(3) Balancing of short- and long-term effects

As part of its weighing the equities while considering any request for an injunction that applies to an agency action under an authorized hazardous fuel reduction project, the court reviewing the project shall balance the impact to the ecosystem likely affected by the project of—

(A) the short- and long-term effects of undertaking the agency action; against

(B) the short- and long-term effects of not undertaking the agency action.

(Pub. L. 108-148, title I, §106, Dec. 3, 2003, 117 Stat. 1900.)

§ 6517. Effect of subchapter**(a) Other authority**

Nothing in this subchapter affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority (including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) to conduct a hazardous fuel reduction project on Federal land (including Federal land identified in section 6512(d) of this title) that is not conducted using the process authorized by section 6514 of this title.

(b) National Forest System

For projects and activities of the National Forest System other than authorized hazardous fuel reduction projects, nothing in this subchapter affects, or otherwise biases, the notice, comment, and appeal procedures for projects and activities of the National Forest System contained in part 215 of title 36, Code of Federal Regulations, or the consideration or disposition of any legal action brought with respect to the procedures.

(Pub. L. 108-148, title I, §107, Dec. 3, 2003, 117 Stat. 1900.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to

the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6518. Authorization of appropriations

There is authorized to be appropriated \$760,000,000 for each fiscal year to carry out—

(1) activities authorized by this subchapter; and

(2) other hazardous fuel reduction activities of the Secretary, including making grants to States, local governments, Indian tribes, and other eligible recipients for activities authorized by law.

(Pub. L. 108-148, title I, §108, Dec. 3, 2003, 117 Stat. 1901.)

SUBCHAPTER II—BIOMASS

§ 6531. Biomass commercial utilization grant program**(a) In general**

In addition to any other authority of the Secretary of Agriculture to make grants to a person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuel, or substitutes for petroleum-based products, the Secretary may make grants to a person that owns or operates a facility that uses biomass for wood-based products or other commercial purposes to offset the costs incurred to purchase biomass.

(b) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2004 through 2008.

(Pub. L. 108-148, title II, §203, Dec. 3, 2003, 117 Stat. 1902.)

SUBCHAPTER III—WATERSHED FORESTRY ASSISTANCE

§ 6541. Findings and purposes**(a) Findings**

Congress finds that—

(1) there has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management;

(2) it is commonly recognized that the proper stewardship of forest land is essential to sustaining and restoring the health of watersheds;

(3) forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes forest restoration worthy of special focus; and

(4) strengthened education, technical assistance, and financial assistance for nonindustrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

(b) Purposes

The purposes of this subchapter are—

(1) to improve landowner and public understanding of the connection between forest management and watershed health;