

105TH CONGRESS
2^D SESSION

H. R. 4210

To address the simultaneous decline of forest health of National Forest System lands in the State of New Mexico and rural community economies and to prevent and protect such lands from catastrophic fires, consistent with the requirements of existing public land management and environmental laws.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 1998

Mr. REDMOND introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To address the simultaneous decline of forest health of National Forest System lands in the State of New Mexico and rural community economies and to prevent and protect such lands from catastrophic fires, consistent with the requirements of existing public land management and environmental laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “New Mexico Forest Health and Fire Prevention Act of
4 1998”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. New Mexico Program of Forest Health and Fire Prevention.
- Sec. 5. Forest Health and Fire Protection Fund.
- Sec. 6. Authorization of Appropriations.
- Sec. 7. Audit Requirements.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) The management of National Forest Sys-
10 tem lands in the State of New Mexico must become
11 proactive instead of passive or delayed. The best
12 proactive management approach to prevent cata-
13 strophic fires would be to utilize the talents of local
14 communities for the process of thinning the forests.
15 At the same time, local communities will create busi-
16 nesses through developing value-added products
17 from the harvested wood.

18 (2) Increases in both the number and severity
19 of wildfires are occurring as a result of high tree
20 densities, species composition and structure that are
21 outside the historic range of variability. Fire disturb-
22 ances contribute to significant soil erosion, degrada-

1 tion of air and water quality, loss of watershed val-
2 ues, loss of wildlife habitat and damage to other for-
3 est resources.

4 (3) Serious destruction or degradation of im-
5 portant forest resources occurs in all regions of New
6 Mexico. The health of the land is directly related to
7 the economic health of the communities it sur-
8 rounds. Management activities of forests should be
9 designed to incorporate local communities in the
10 management process.

11 (4) The National Forest System lands in New
12 Mexico are at an unacceptable risk of destruction by
13 catastrophic wildfire. The condition of these forests
14 can pose a significant threat of destruction to
15 human life and property as well as to the habitat of
16 fish, and wildlife (including threatened and endan-
17 gered species), public recreation areas, timber, wa-
18 tershed and other important forest resources.

19 (5) Restoration and protection of important for-
20 est resources require active forest management in-
21 volving rural communities who will integrate envi-
22 ronmentally compatible harvesting techniques and
23 develop businesses which are operated at the local
24 level and driven by market forces.

1 (6) Many units of the National Forest System
2 in New Mexico have an increasing backlog of un-
3 funded projects to restore and protect degraded for-
4 est resources. Adequate funding, structured so as to
5 maximize allocation of monies on-the-ground
6 projects, is needed to address this backlog in an effi-
7 cient, cost-effective way.

8 (7) A comprehensive, Statewide effort is needed
9 to restore and protect important forest resources in
10 an organized, community wide, timely and scientific
11 manner. There should be immediate action to im-
12 prove National Forest System lands in New Mexico
13 where serious resource degradation has been thor-
14 oughly identified and assessed or where serious re-
15 source destruction or degradation by natural dis-
16 turbance is imminent.

17 (8) Inventory and analysis of the status and
18 trends in the fire conditions of forests and their re-
19 sources are needed to identify and reverse the de-
20 struction or degradation of important forest re-
21 sources in a timely and effective manner.

22 **SEC. 3. DEFINITIONS.**

23 For the purposes of this Act:

1 (1) FEDERAL FOREST LANDS.—The term
2 “Federal forest lands” means National Forest Sys-
3 tem lands located within the State of New Mexico.

4 (2) COMMUNITY.—The term “community”
5 means a rural community located within the uplands
6 of New Mexico, which is surrounded by, or adjacent
7 to, Federal forest lands.

8 (3) FUND.—The terms “Forest Health and
9 Fire Prevention Fund” and “Fund” mean the fund
10 established under section 5.

11 (4) IMPLEMENTATION DATE.—The term “im-
12 plementation date” means January 15, 2000, or the
13 first day of the 19th full month following the date
14 of the enactment of this Act, whichever is later.
15 However, if the implementation date under the sec-
16 ond option would occur within six months of the
17 next January 15, the Secretary may designate that
18 January 15 as the implementation date.

19 (5) LAND MANAGEMENT PLAN.—The term
20 “land management plan” means a land and resource
21 management plan prepared by the Forest Service
22 pursuant to section 6 of the Forest and Rangeland
23 Renewable Resources Planning Act of 1974 (16
24 U.S.C. 1604) for Federal forest lands under the ju-
25 risdiction of the Secretary of Agriculture.

1 (6) NEW MEXICO PROGRAM.—The term “New
2 Mexico Program” means the program to restore and
3 protect forest resources located on Federal forest
4 lands within New Mexico required by section 4.

5 (7) OVERHEAD EXPENSES.—The terms “over-
6 head expenses” and “overhead” mean the following:

7 (A) Common services and indirect ex-
8 penses, as such terms are defined by expense
9 items 1–10 in Appendix E of the United States
10 Forest Service Forest Timber Cost Efficiency
11 Study Final Report, dated April 16, 1993
12 (pages 125–126).

13 (B) Direct and indirect general administra-
14 tion expenses, as such terms are identified in
15 Appendix D of the United States Forest Service
16 Management Program Annual Report.

17 (C) Any other cost of line management or
18 program support that cannot be directly attrib-
19 utable to specific projects or programs.

20 (8) RECOVERY AREA.—The term “recovery
21 area” means an area of Federal forest lands identi-
22 fied by the District 3 Regional Forester under sec-
23 tion 4(c)—

24 (A) that has experienced small stand tim-
25 ber and woody tree encroachment which will

1 contribute significantly to disturbances from
2 wildfire; or

3 (B) in which the forest structure, function,
4 or composition has been altered so as to in-
5 crease substantially the likelihood of wildfire in
6 the area and the consequent risks of damage to
7 soils, water quality, watershed values, habitat
8 and other forest resources from wildfire.

9 (9) RECOVERY PROJECT.—The term “recovery
10 project” means a project designed by the District 3
11 Regional Forester to allow communities to restore,
12 or protect forest resources within an identified recov-
13 ery area, including thinning, salvage, prescribed fire
14 (after appropriate thinning), sanitation and other in-
15 sect and disease control, riparian and other habitat
16 improvement, soil stabilization and other water qual-
17 ity improvement and protection.

18 (10) SECRETARY.—The term “Secretary”
19 means the Secretary of Agriculture.

20 **SEC. 4. NEW MEXICO PROGRAM OF FOREST HEALTH AND**
21 **FIRE PREVENTION.**

22 (a) NEW MEXICO PROGRAM REQUIRED.—Not later
23 than the implementation date, the District 3 Regional
24 Forester shall commence a statewide program to restore
25 and protect forest resources located on Federal forest

1 lands within New Mexico through the performance of re-
2 covery projects in identified recovery areas.

3 (b) INITIAL IMPLEMENTATION.—

4 (1) INITIAL PROJECT.—Not later than the im-
5 plementation date, the initial project under the New
6 Mexico Program shall be the thinning of Monument
7 Canyon Research Natural Area located near Jemez
8 Springs, New Mexico, on the Santa Fe National
9 Forest, because this research area is representative
10 of the open Ponderosa Pine Forests typical of New
11 Mexico. This formally established research area ex-
12 emplifies the situation and research stated in the
13 findings specified in section 2. The research imple-
14 mentation will require treatments to reduce small di-
15 ameter trees. Monitoring of the treatments will be
16 designed by an assembled group of leading research
17 scientists in the southwest.

18 (2) INITIAL STANDARDS AND GUIDELINES.—

19 The research scientists located at the Monument
20 Canyon Research Natural Area will provide the ini-
21 tial project standards and guidelines.

22 (3) MONITORING.—Continued monitoring and
23 information transfer with the Monument Canyon Re-
24 search Natural Area scientists will provide the basis

1 for modification of standards and criteria for use
2 with regard to other recovery projects.

3 (c) IDENTIFICATION OF RECOVERY AREAS.—

4 (1) ALLOCATION OF FUNDS; IDENTIFICATION
5 AND RANKING OF RECOVERY AREAS.—For each fis-
6 cal year during the New Mexico Program, the Sec-
7 retary shall allocate, in accordance with the stand-
8 ards and criteria established and in effect for the
9 New Mexico Program, amounts from the Forest
10 Health and Fire Prevention Fund to Region 3 of the
11 Forest Service for the purpose of conducting recov-
12 ery projects in identified recovery areas. In making
13 such allocations, the District 3 Regional Forester
14 shall—

15 (A) identify recovery areas within which al-
16 located amounts should be used to conduct re-
17 covery projects; and

18 (B) prioritize recovery areas for the pur-
19 pose of their receiving allocated amounts.

20 (2) AUTHORIZED USE OF FUNDS FOR 5-YEAR
21 PROJECT.—Amounts allocated by the Secretary pur-
22 suant to paragraph (1) shall be available, without
23 further allocation by the Secretary, to carry out and
24 administer a 5-year recovery project.

25 (d) SELECTION OF RECOVERY PROJECTS.—

1 (1) SELECTION AND FINAL DECISION RE-
2 QUIRED.—The District 3 Regional Forester (or the
3 designees of the regional forester) shall select and
4 render a final decision on the recovery projects to be
5 carried out within each identified recovery area.

6 (2) PROHIBITED PROJECT LOCATIONS.—The
7 District 3 Regional Forester (or the designees of the
8 regional forester) shall not select or implement a re-
9 covery project under the authority of this Act in any
10 of the following:

11 (A) Any unit of the National Wilderness
12 Preservation System or any roadless area on
13 Federal forest lands designated by Congress be-
14 fore the date of the enactment of this Act for
15 study for possible inclusion in such system.

16 (B) Any riparian area, late successional re-
17 serve, or old growth area, designated before the
18 date of the enactment of this Act by the appli-
19 cable land management plan, within which the
20 implementation of recovery projects is prohib-
21 ited.

22 (C) Any other area, designated before the
23 date of the enactment of this Act by the appli-
24 cable land management plan, in which the im-
25 plementation of recovery projects is prohibited

1 by law, a court order, or the applicable land
2 management plan.

3 (e) REQUIREMENTS FOR RECOVERY PROJECT SE-
4 LECTION.—In selecting recovery projects as required
5 under subsection (d), the District 3 Regional Forester (or
6 the designees of the regional forester) in New Mexico
7 shall—

8 (1) identify for each recovery project the total
9 acreage requiring treatment, the estimated cost of
10 preparation and implementation and the estimated
11 project duration;

12 (2) ensure that the total acreage in a recovery
13 area is not less than the total acreage identified by
14 the Secretary for that recovery area;

15 (3) consider and make paramount the economic
16 benefits to be provided to local communities as a re-
17 sult of recovery project;

18 (4) ensure that each recovery project is consist-
19 ent with the land management plan, which may be
20 modified as necessary, applicable to the recovery
21 area within which the recovery project will be con-
22 ducted; and

23 (5) ensure that each recovery project is de-
24 signed to be implemented in the most cost-effective

1 manner reasonable to ensure benefits to commu-
2 nities and successful forest recovery.

3 **SEC. 5. FOREST HEALTH AND FIRE PREVENTION FUND.**

4 (a) ESTABLISHMENT.—There is established on the
5 books of the Treasury a fund to be known as the “Forest
6 Health and Fire Prevention Fund”. The Chief of the For-
7 est Service shall be responsible for administering the
8 Fund.

9 (b) CREDITS TO FUND.—There shall be credited to
10 the fund the following:

11 (1) Amounts authorized for and appropriated to
12 the Fund.

13 (2) Unobligated amounts in the roads and trails
14 fund provided for in the fourteenth paragraph under
15 the heading “FOREST SERVICE” of the Act of
16 March 4, 1913 (37 Stat. 843; 16 U.S.C. 501) as of
17 the date of the enactment of this Act, and all
18 amounts which would otherwise be deposited in such
19 fund after such date.

20 (3) The Federal share of revenues generated by
21 recovery projects undertaken pursuant to the New
22 Mexico Program.

23 (c) USE OF FUND.—During the time period specified
24 under the Act, amounts in the Fund shall be available to
25 the District 3 Regional Forester, without further appro-

1 priation, to carry out the New Mexico program and to
2 plan, carry out, and administer recovery projects.

3 (d) LIMITATION ON OVERHEAD EXPENSES.—The
4 Secretary shall not allocate or assign overhead expenses
5 to the Fund or to any of the activities or programs author-
6 ized by the Act.

7 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated \$12,000,000 to carry
10 out the provisions of the Act for the fiscal year in which
11 this Act is enacted and each fiscal year thereafter through
12 September 30, 2005, or September 30 of the 5th full fiscal
13 year following the implementation date, whichever is later.

14 (b) DEPOSIT IN FUND.—All sums appropriated pur-
15 suant to this section shall be deposited in the Forest
16 Health and Fire Prevention Fund.

17 (c) EFFECT ON EXISTING PROJECTS.—Any contract
18 regarding a recovery project entered into before the end
19 of the fiscal year specified in subsection (a), and still in
20 effect at the end of such fiscal year, shall remain in effect
21 until completed pursuant to the terms of the contract.

22 **SEC. 7. AUDIT REQUIREMENTS.**

23 (a) NEW MEXICO PROGRAM AUDIT.—The Comptrol-
24 ler General shall conduct an audit of the New Mexico pro-

1 gram at the end of the fourth full fiscal year following
2 the implementation date.

3 (b) ELEMENTS OF AUDIT.—The audit under sub-
4 section (a) shall include an analysis of at least the follow-
5 ing:

6 (1) Whether the initial recovery project con-
7 ducted under section 4(b), the New Mexico Program,
8 and the administration of the Forest Health and
9 Fire Prevention Fund were carried out in a manner
10 consistent with the provisions of this Act.

11 (2) The current and projected future financial
12 status of the Forest Health and Fire Prevention
13 Fund.

14 (3) Any cost savings or efficiencies achieved
15 under the New Mexico Program.

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