

Calendar No. 406113TH CONGRESS
2^D SESSION**S. 1300****[Report No. 113–179]**

To amend the Healthy Forests Restoration Act of 2003 to provide for the conduct of stewardship end result contracting projects.

IN THE SENATE OF THE UNITED STATES

JULY 16 (legislative day, JULY 15), 2013

Mr. FLAKE (for himself, Mr. MCCAIN, Mr. CRAPO, Mr. RISCH, Mr. HELLER, Mr. BAUCUS, Mr. BARRASSO, Mr. HEINRICH, Mr. ENZI, Mr. TESTER, and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JUNE 2, 2014

Reported by Ms. LANDRIEU, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Healthy Forests Restoration Act of 2003 to provide for the conduct of stewardship end result contracting projects.

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.**

2 This Act may be cited as the “Stewardship Con-
3 tracting Reauthorization and Improvement Act”.

4 **SEC. 2. STEWARDSHIP END RESULT CONTRACTING**
5 **PROJECTS.**

6 (a) IN GENERAL.—Title VI of the Healthy Forests
7 Restoration Act of 2003 (16 U.S.C. 6591) is amended by
8 adding at the end the following:

9 **“SEC. 602. STEWARDSHIP END RESULT CONTRACTING**
10 **PROJECTS.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) CHIEF.—The term ‘Chief’ means the Chief
13 of the Forest Service.

14 “(2) DIRECTOR.—The term ‘Director’ means
15 the Director of the Bureau of Land Management.

16 “(b) PROJECTS.—~~Until September 30, 2023, the~~ *The*
17 Chief and the Director, via agreement or contract as ap-
18 propriate, may enter into stewardship contracting projects
19 with private persons or other public or private entities to
20 perform services to achieve land management goals for the
21 national forests and the public lands that meet local and
22 rural community needs.

23 “(c) LAND MANAGEMENT GOALS.—The land man-
24 agement goals of a project under subsection (b) may in-
25 clude—

1 “(1) road and trail maintenance or obliteration
2 to restore or maintain water quality;

3 “(2) soil productivity, habitat for wildlife and
4 fisheries, or other resource values;

5 “(3) setting of prescribed fires to improve the
6 composition, structure, condition, and health of
7 stands or to improve wildlife habitat;

8 “(4) removing vegetation or other activities to
9 promote healthy forest stands, reduce fire hazards,
10 or achieve other land management objectives;

11 “(5) watershed restoration and maintenance;

12 “(6) restoration and maintenance of wildlife
13 and fish; or

14 “(7) control of noxious and exotic weeds and re-
15 establishing native plant species.

16 “(d) AGREEMENTS OR CONTRACTS.—

17 “(1) PROCUREMENT PROCEDURE.—A source
18 for performance of an agreement or contract under
19 subsection (b) shall be selected on a best-value basis,
20 including consideration of source under other public
21 and private agreements or contracts.

22 “(2) CONTRACT FOR SALE OF PROPERTY.—A
23 contract entered into under this section may, at the
24 discretion of the Secretary of Agriculture, be consid-
25 ered a contract for the sale of property under such

1 terms as the Secretary may prescribe without regard
2 to any other provision of law.

3 “(3) TERM.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the Chief and the Director
6 may enter into a contract under subsection (b)
7 in accordance with section 3903 of title 41,
8 United States Code.

9 “(B) MAXIMUM.—The period of the con-
10 tract under subsection (b) may exceed 5 years
11 but may not exceed 10 years.

12 “(4) OFFSETS.—

13 “(A) IN GENERAL.—The Chief and the Di-
14 rector may apply the value of timber or other
15 forest products removed as an offset against the
16 cost of services received under the agreement or
17 contract described in subsection (b).

18 “(B) METHODS OF APPRAISAL.—The value
19 of timber or other forest products used as an
20 offset under subparagraph (A)—

21 “(i) shall be determined using appro-
22 priate methods of appraisal commensurate
23 with the quantity of products to be re-
24 moved; and

25 “(ii) may—

1 “(I) be determined using a unit
2 of measure appropriate to the con-
3 tracts; and

4 “(II) may include valuing prod-
5 ucts on a per-acre basis.

6 “(5) CANCELLATION CEILINGS.—

7 “(A) IN GENERAL.—The Chief and the Di-
8 rector may obligate funds to cover any potential
9 cancellation or termination costs for an agree-
10 ment or contract under subsection (b) in stages
11 that are economically or programmatically via-
12 ble.

13 “(B) NOTICE.—

14 “(i) SUBMISSION TO CONGRESS.—Not
15 later than 30 days before entering into a
16 multiyear agreement or contract under
17 subsection (b) that includes a cancellation
18 ceiling in excess of \$25,000,000, but does
19 not include proposed funding for the costs
20 of cancelling the agreement or contract up
21 to the cancellation ceiling established in
22 the agreement or contract, the Chief and
23 the Director shall submit to the Committee
24 on Energy and Natural Resources of the
25 Senate and the Committee on Natural Re-

1 sources of the House of Representatives a
2 written notice that includes—

3 “(I)(aa) the cancellation ceiling
4 amounts proposed for each program
5 year in the agreement or contract;
6 and

7 “(bb) the reasons for the can-
8 cellation ceiling amounts proposed
9 under item (aa);

10 “(II) the extent to which the
11 costs of contract cancellation are not
12 included in the budget for the agree-
13 ment or contract; and

14 “(III) a financial risk assessment
15 of not including budgeting for the
16 costs of agreement or contract can-
17 cellation.

18 “(ii) TRANSMITTAL TO OMB.—At least
19 14 days before the date on which the Chief
20 and Director enter into an agreement or
21 contract under subsection (b), the Chief
22 and Director shall transmit to the Director
23 of the Office of Management and Budget
24 a copy of the written notice submitted
25 under clause (i).

1 “(6) RELATION TO OTHER LAWS.—Notwith-
2 standing subsections (d) and (g) of section 14 of the
3 National Forest Management Act of 1976 (16
4 U.S.C. 472a) *and section 2(a)(1) of the Act of July*
5 *31, 1947 (commonly known as the ‘Materials Act of*
6 *1947’)* (30 U.S.C. 602(a)(1)), the Chief *and the Di-*
7 *rector* may enter into an agreement or contract
8 under subsection (b).

9 “(7) CONTRACTING OFFICER.—Notwithstanding
10 any other provision of law, the Secretary or the Sec-
11 retary of the Interior may determine the appropriate
12 contracting officer to enter into and administer an
13 agreement or contract under subsection (b).

14 “(8) FIRE LIABILITY PROVISIONS.—Not later
15 than 90 days after the date of enactment of this sec-
16 tion, the Chief and the Director shall issue for use
17 in all contracts and agreements under subsection (b)
18 fire liability provisions that are in substantially the
19 same form as the fire liability provisions contained
20 in—

21 “(A) integrated resource timber contracts,
22 as described in the Forest Service contract
23 numbered 2400–13, part H, section H.4; and

1 “(B) timber sale contracts conducted pur-
2 suant to section 14 of the National Forest
3 Management Act of 1976 (16 U.S.C. 472a).

4 “(e) RECEIPTS.—

5 “(1) IN GENERAL.—The Chief and the Director
6 may collect monies from an agreement or contract
7 under subsection (b) if the collection is a secondary
8 objective of negotiating the contract that will best
9 achieve the purposes of this section.

10 “(2) USE.—Monies from an agreement or con-
11 tract under subsection (b)—

12 “(A) may be retained by the Chief and the
13 Director; and

14 “(B) shall be available for expenditure
15 without further appropriation at the project site
16 from which the monies are collected or at an-
17 other project site.

18 “(3) RELATION TO OTHER LAWS.—

19 “(A) IN GENERAL.—Notwithstanding any
20 other provision of law, the value of services re-
21 ceived by the Chief or the Director under a
22 stewardship contract project conducted under
23 this section, and any payments made or re-
24 sources provided by the contractor, Chief, or
25 Director shall not be considered monies received

1 from the National Forest System or the public
2 lands.

3 “(B) KNUTSON-VANDERBERG ACT.—The
4 Act of June 9, 1930 (commonly known as the
5 ‘Knutson-Vanderberg Act’) (16 U.S.C. 576 et
6 seq.) shall not apply to any agreement or con-
7 tract under subsection (b).

8 “(f) COSTS OF REMOVAL.—Notwithstanding the fact
9 that a contractor did not harvest the timber, the Chief
10 may collect deposits from a contractor covering the costs
11 of removal of timber or other forest products under—

12 “(1) the Act of August 11, 1916 (16 U.S.C.
13 490); and

14 “(2) the Act of June 30, 1914 (16 U.S.C. 498).

15 “(g) PERFORMANCE AND PAYMENT GUARANTEES.—

16 “(1) IN GENERAL.—The Chief and the Director
17 may require performance and payment bonds under
18 sections 28.103–2 and 28.103–3 of the Federal Ac-
19 quisition Regulation, in an amount that the con-
20 tracting officer considers sufficient to protect the in-
21 vestment in receipts by the Federal Government
22 generated by the contractor from the estimated
23 value of the forest products to be removed under a
24 contract under subsection (b).

1 “(2) EXCESS OFFSET VALUE.—If the offset
2 value of the forest products exceeds the value of the
3 resource improvement treatments, the Chief and the
4 Director shall—

5 “(A) use the excess to satisfy any out-
6 standing liabilities for cancelled agreements or
7 contracts; or

8 “(B) if there are no outstanding liabilities
9 under subparagraph (A), apply the excess to
10 other authorized stewardship projects.

11 “(h) MONITORING AND EVALUATION.—

12 “(1) IN GENERAL.—The Chief and the Director
13 shall establish a multiparty monitoring and evalua-
14 tion process that accesses the stewardship con-
15 tracting projects conducted under this section.

16 “(2) PARTICIPANTS.—Other than the Chief and
17 Director, participants in the process described in
18 paragraph (1) may include—

19 “(A) any cooperating governmental agen-
20 cies, including tribal governments; and

21 “(B) any other interested groups or indi-
22 viduals.

23 “(i) REPORTING.—Not later than 1 year after the
24 date of enactment of this section, and annually thereafter,
25 the Chief and the Director shall report to the Committee

1 on Energy and Natural Resources of the Senate and the
 2 Committee on Natural Resources of the House of Rep-
 3 resentatives on—

4 “(1) the status of development, execution, and
 5 administration of agreements or contracts under
 6 subsection (b);

7 “(2) the specific accomplishments that have re-
 8 sulted; and

9 “(3) the role of local communities in the devel-
 10 opment of agreements or contract plans.”.

11 (b) **OFFSET.**—To the extent necessary, the Chief and
 12 the Director shall offset any direct spending authorized
 13 under section 602 of the Healthy Forests Restoration Act
 14 of 2003 (as added by subsection (a)) using any additional
 15 amounts that may be made available to the Chief or the
 16 Director for the applicable fiscal year.

17 ~~(e) **CONFORMING AMENDMENT.**—Section 347 of the~~
 18 ~~Department of the Interior and Related Agencies Appro-~~
 19 ~~priations Act, 1999 (16 U.S.C. 2104 note; Public Law~~
 20 ~~105–277) is repealed.~~

21 (c) *CONFORMING AMENDMENT.*—

22 (1) *IN GENERAL.*—*Section 347 of the Depart-*
 23 *ment of the Interior and Related Agencies Appropria-*
 24 *tions Act, 1999 (16 U.S.C. 2104 note; Public Law*
 25 *105–277) is repealed.*

1 (2) *EFFECT OF REPEAL.*—*Notwithstanding the*
2 *amendment made by paragraph (1), nothing in this*
3 *Act or an amendment made by this Act invalidates*
4 *or otherwise affects any stewardship contract entered*
5 *into by the Chief of the Forest Service or the Director*
6 *of the Bureau of Land Management that is in effect*
7 *on the date of enactment of this Act.*

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