

Editorial Notes

REFERENCES IN TEXT

Section 102 of this division, referred to in subsec. (a), means section 102 of div. O of Pub. L. 115–141.

CODIFICATION

Section was enacted as part of the Wildfire Suppression Funding and Forest Management Activities Act, and also as part of the Consolidated Appropriations Act, 2018, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1748b. Cohesive wildfire management strategy**(a) Strategy required**

Not later than one year after October 30, 2009, the Secretary of the Interior and the Secretary of Agriculture, acting jointly, shall submit to Congress a report that contains a cohesive wildfire management strategy, consistent with the recommendations described in recent reports of the Government Accountability Office regarding management strategies.

(b) Elements of strategy

The strategy required by subsection (a) shall provide for—

- (1) the identification of the most cost-effective means for allocating fire management budget resources;
- (2) the reinvestment in non-fire programs by the Secretary of the Interior and the Secretary of Agriculture;
- (3) employing the appropriate management response to wildfires;
- (4) assessing the level of risk to communities;
- (5) the allocation of hazardous fuels reduction funds based on the priority of hazardous fuels reduction projects;
- (6) assessing the impacts of climate change on the frequency and severity of wildfire; and
- (7) studying the effects of invasive species on wildfire risk.

(c) Revision

At least once during each five-year period beginning on the date of the submission of the cohesive wildfire management strategy under subsection (a), the Secretary of the Interior and the Secretary of Agriculture shall revise the strategy to address any changes affecting the strategy, including changes with respect to landscape, vegetation, climate, and weather.

(Pub. L. 111–88, div. A, title V, § 503, Oct. 30, 2009, 123 Stat. 2971.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Executive Documents

EX. ORD. NO. 13855. PROMOTING ACTIVE MANAGEMENT OF AMERICA'S FORESTS, RANGELANDS, AND OTHER FEDERAL LANDS TO IMPROVE CONDITIONS AND REDUCE WILDFIRE RISK

Ex. Ord. No. 13855, Dec. 21, 2018, 84 F.R. 45, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. It is the policy of the United States to protect people, communities, and watersheds, and to promote healthy and resilient forests, rangelands, and other Federal lands by actively managing them through partnerships with States, tribes, communities, non-profit organizations, and the private sector. For decades, dense trees and undergrowth have amassed in these lands, fueling catastrophic wildfires. These conditions, along with insect infestation, invasive species, disease, and drought, have weakened our forests, rangelands, and other Federal lands, and have placed communities and homes at risk of damage from catastrophic wildfires.

Active management of vegetation is needed to treat these dangerous conditions on Federal lands but is often delayed due to challenges associated with regulatory analysis and current consultation requirements. In addition, land designations and policies can reduce emergency responder access to Federal land and restrict management practices that can promote wildfire-resistant landscapes. With the same vigor and commitment that characterizes our efforts to fight wildfires, we must actively manage our forests, rangelands, and other Federal lands to improve conditions and reduce wildfire risk.

In recognition of these regulatory, policy, and coordinating challenges, the Secretary of the Interior and the Secretary of Agriculture (the Secretaries) each shall implement the following policies in their respective departments:

(a) **Shared Management Priorities.** The goal of Federal fire management policy for forests, rangelands, and other Federal lands shall be to agree on a set of shared priorities with Federal land managers, States, tribes, and other landowners to manage fire risk across landscapes.

(b) **Coordinating Federal, State, Tribal, and Local Assets.** Wildfire prevention and suppression and post-wildfire restoration require a variety of assets and skills across landscapes. Federal, State, tribal, and local governments should coordinate the deployment of appropriate assets and skills to restore our landscapes and communities after damage caused by fires and to help reduce hazardous fuels through active forest management in order to protect communities, critical infrastructure, and natural and cultural resources.

(c) **Removing Hazardous Fuels, Increasing Active Management, and Supporting Rural Economies.** Post-fire assessments show that reducing vegetation through hazardous fuel management and strategic forest health treatments is effective in reducing wildfire severity and loss. Actions must be taken across landscapes to prioritize treatments in order to enhance fuel reduction and forest-restoration projects that protect life and property, and to benefit rural economies through encouraging utilization of the by-products of forest restoration.

SEC. 2. Goals. (a) To protect communities and watersheds, to better prevent catastrophic wildfires, and to improve the health of America's forests, rangelands, and other Federal lands, the Secretaries shall each develop goals and implementation plans for wildfire prevention activities and programs in their respective departments. In the development of such goals and plans:

(i) The Secretary of the Interior shall review the Secretary's 2019 budget justifications and give all due consideration to establishing the following objectives for 2019, as feasible and appropriate in light of those budget justifications, and consistent with applicable law and available appropriations:

(A) Treating 750,000 acres of Department of the Interior (DOI)-administered lands to reduce fuel loads;

(B) Treating 500,000 acres of DOI-administered lands to protect water quality and mitigate severe flooding and erosion risks arising from forest fires;

(C) Treating 750,000 acres of DOI-administered lands for native and invasive species;

(D) Reducing vegetation giving rise to wildfire conditions through forest health treatments by increasing health treatments as part of DOI's offering for sale 600 million board feet of timber from DOI-administered lands; and

(E) Performing maintenance on public roads needed to provide access for emergency services and restoration work; and

(ii) The Secretary of Agriculture shall review the Secretary's 2019 budget justifications and give all due consideration to establishing the following objectives for 2019, as feasible and appropriate in light of those budget justifications, and consistent with applicable law and available appropriations:

(A) Treating 3.5 million acres of Department of Agriculture (USDA) Forest Service (FS) lands to reduce fuel load;

(B) Treating 2.2 million acres of USDA FS lands to protect water quality and mitigate severe flooding and erosion risks arising from forest fires;

(C) Treating 750,000 acres of USDA FS lands for native and invasive species;

(D) Reducing vegetation giving rise to wildfire conditions through forest health treatments by increasing health treatments as part of USDA's offering for sale at least 3.8 billion board feet of timber from USDA FS lands; and

(E) Performing maintenance on roads needed to provide access on USDA FS lands for emergency services and restoration work.

(b) For the years following establishment of the objectives in subsection (a) of this section, the Secretaries shall consider annual treatment objectives that meet or exceed those established in subsection (a) of this section, using the full range of available and appropriate management tools, including prescribed burns and mechanical thinning. The Secretaries shall also refine and develop performance metrics to better capture the risk reduction benefits achieved through application of these management tools.

(c) In conjunction with establishment of goals, and by no later than March 31, 2019, the Secretaries shall identify salvage and log recovery options from lands damaged by fire during the 2017 and 2018 fire seasons, insects, or disease.

SEC. 3. *Coordination and Efficient Processes.* Effective Federal agency coordination and efficient administrative actions and decisions are essential to improving the condition of America's forests, rangelands, and other Federal lands. To advance the policies set forth in this order and the goals set by the Secretaries, the Secretaries shall:

(a) Coordinate with the heads of all relevant Federal agencies to prioritize and promptly implement post-wildfire rehabilitation, salvage, and forest restoration;

(b) Streamline agency administrative and regulatory processes and policies relating to fuel reduction in forests, rangelands, and other Federal lands and forest restoration when appropriate by:

(i) Adhering to minimum statutory and regulatory time periods, to the maximum extent practicable, for comment, consultation, and administrative review processes related to active management of forests, rangelands, and other Federal lands, including management of wildfire risks;

(ii) Using all applicable categorical exclusions set forth in law or regulation for fire management, restoration, and other management projects in forests, rangelands, and other Federal lands when implementing the requirements of the National Environmental Policy Act [of 1969] (42 U.S.C. 4321 *et seq.*);

(iii) Consistent with applicable law, developing and using new categorical exclusions to implement active management of forests, rangelands, and other Federal lands; and

(iv) Immediately prioritizing efforts to reduce the time required to comply with consultation obligations under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

SEC. 4. *Unmanned Aerial Systems.* To reduce fire and forest health risks as described in section 1 of this

order, the Secretaries shall, in coordination with the Administrator of the Federal Aviation Administration, maximize appropriate use of unmanned aerial systems to accelerate forest management and support fire-fighting and post-fire rehabilitation in forests, rangelands, and other Federal lands.

SEC. 5. *Wildfire Strategy.* (a) In collaboration with Federal, State, tribal, and local partners, the Secretaries shall jointly develop, by December 31, 2020, a strategy to support local Federal land managers in project decision-making and inform local fire management decisions related to forests, rangelands, and other Federal lands, thereby protecting habitats and communities, and reducing risks to physical infrastructure.

(b) In developing the strategy described in subsection (a) of this section, the Secretaries shall:

(i) Identify DOI- and USDA FS-administered lands with the highest probability of catastrophic wildfires, as well as areas on those lands where there is a high probability that wildfires would threaten people, structures, or other high-value assets, in order to direct and prioritize actions to meet land management goals and to protect communities;

(ii) Examine the costs and challenges relating to management of DOI- and USDA FS-administered lands, including costs associated with wildfire suppression, implementation of applicable statutory requirements, and litigation;

(iii) Review land designations and policies that may limit active forest management and increase the risk of catastrophic wildfires;

(iv) Consider market conditions as appropriate when preparing timber sales, including biomass and biochar opportunities, and encourage export of these or similar forest-treatment products to the maximum extent permitted by law, in order to promote active forest management, mitigate wildfire risk, and encourage post-fire forest restoration;

(v) Develop recommended actions and incentives to expand uses, markets, and utilization of forest products resulting from restoration and fuel reduction projects in forests, rangelands, and other Federal lands, including biomass and small-diameter materials;

(vi) Assess how effectively Federal programs and investments support forest-product infrastructure and market access;

(vii) Identify and assess methods, including methods undertaken pursuant to section 3(b)(iv) of this order, to more effectively and efficiently streamline consultation under the Endangered Species Act;

(viii) In conjunction with the Administrator of the Environmental Protection Agency, identify methods to reduce interagency regulatory barriers, improve alignment of Federal, State, and tribal policy, and identify redundant policies and procedures to promote efficiencies in implementing the Clean Water Act of 1972 [also known as the Federal Water Pollution Control Act] (33 U.S.C. 1251 *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), and other applicable Federal environmental laws; and

(ix) Develop procedures and guidance to facilitate timely compliance with the National Environmental Policy Act.

SEC. 6. *Collaborative Partnerships.* To reduce fuel loads, restore watersheds, and improve forest, rangeland, and other Federal land conditions, and to utilize available expertise and efficiently deploy resources, the Secretaries shall expand collaboration with States, tribes, communities, non-profit organizations, and the private sector. Such expanded collaboration by the Secretaries shall, at a minimum, address:

(a) Supporting road activities needed to maintain forest, rangeland, and other Federal land health and to mitigate wildfire risk by expanding existing or entering into new Good Neighbor Authority agreements, consistent with applicable law; and

(b) Achieving the land management restoration goals set forth in section 2 of this order and reducing fuel loads by pursuing long-term stewardship contracts, including 20-year contracts, with States, tribes, non-prof-

it organizations, communities, and the private sector, consistent with applicable law.

SEC. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 13976. ESTABLISHING THE WILDLAND FIRE MANAGEMENT POLICY COMMITTEE

Ex. Ord. No. 13976, Jan. 14, 2021, 86 F.R. 6549, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose.* Federal wildland fire management lacks a single focal point of responsibility for policy leadership and accountability for cost controls. While executive departments and agencies (agencies) have implemented Executive Order 13855 of December 21, 2018 (Promoting Active Management of America's Forests, Rangelands, and Other Federal Lands To Improve Conditions and Reduce Wildfire Risk) [set out above], and similar Administration efforts, more must be done to continue to improve interagency coordination.

In contrast to effective ground-level coordination with States, including at the National Interagency Fire Center on suppression activity and the Wildland Fire Leadership Council (WFLC) on Federal-State policy coordination, agencies do not adequately or effectively coordinate with each other at the policy level to reduce hazardous fuels and wildfire severity. This order will ensure that agencies effectively work together in coordinating Federal wildland fire management policy to improve funding allocations for hazardous fuel projects, performance measures for suppression operations and hazardous fuels mitigation, procurement, Federal-State cooperation and cost sharing, cross-jurisdictional post-wildfire rehabilitation, monitoring of electric transmission lines and other critical infrastructure, and other functions.

SEC. 2. *Policy.* It is the policy of the United States to:

(a) Improve coordination among agencies on wildland fire management policy, implementation, and oversight issues;

(b) Reduce unnecessary duplication across the Federal Government by coordinating and consolidating existing wildland fire-related councils, working groups, and other formal cross-agency initiatives, as appropriate;

(c) Efficiently and effectively manage preparedness resources, initial attack response, extended attack and large-fire support, post-wildfire rehabilitation, and hazardous fuels at a cross-boundary, landscape scale;

(d) Promote integrated planning and procurement among agencies for Federal investments in wildland fire management infrastructure;

(e) Support workforce development and efforts to recruit, train, and retain Federal wildland firefighters to efficiently and effectively respond to wildfire on public lands, and to protect life, property, and community infrastructure; and

(f) Coordinate Federal engagement with State, local, and tribal government entities, including Federal policy positions in the WFLC.

SEC. 3. *Interagency Wildland Fire Subcabinet.* To promote efficient and effective coordination across agencies engaged in Federal wildland firefighting and to facilitate coordinated and strategic wildland fire man-

agement actions, an interagency Wildland Fire Management Policy Committee (to be known as the Wildland Fire Subcabinet) is hereby established.

(a) The Wildland Fire Subcabinet shall be co-chaired by the Secretary of Agriculture and Secretary of the Interior (Co-Chairs), and shall include the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, the Chairman of the Council on Environmental Quality (CEQ), the Director of the Office of Science and Technology Policy (OSTP), the Administrator of the Environmental Protection Agency (EPA), the Director of the National Economic Council (NEC), and the heads of such other agencies, or their designated representatives, as the Co-Chairs deem appropriate.

(b) The Wildland Fire Subcabinet shall meet quarterly.

SEC. 4. *Reducing Inefficiencies and Duplication.* Currently, several Federal wildfire-related councils, task forces, working groups, and other formal cross-agency initiatives (Federal interagency working groups) exist to address wildland fire management policy. Within 90 days of the date of this order [Jan. 14, 2021], the Wildland Fire Subcabinet shall, to the extent practicable, identify all such Federal interagency working groups and provide recommendations to the Secretary of the Interior, the Secretary of Agriculture, and the Director of the Office of Management and Budget (OMB) on coordinating and consolidating these Federal interagency working groups, as appropriate and consistent with applicable law.

SEC. 5. *Improving Wildland Fire Management Policy Coordination, Implementation, and Oversight.* Within 180 days of the date of this order, the Wildland Fire Subcabinet shall develop, publish, and implement a strategic plan addressing the issues described in this section. To implement this strategic plan, the Wildland Fire Subcabinet shall develop specific measurable goals, performance targets, and dashboard reporting for consideration by each Federal agency represented on the Wildland Fire Subcabinet, using common data standards at the wildfire and hazardous fuels program level. This strategic plan shall address the issues described below:

(a) Effectively managing preparedness resources, initial attack response, extended attack and large-fire support, post-wildfire rehabilitation, and hazardous fuels at a cross-boundary, landscape scale;

(b) Developing and adopting additional hazardous fuels performance measures that go beyond the traditional output reporting of total acreage for fuel removal to transparently demonstrate a strategic focus on projects that, by consensus agreement, pose the highest risks to life, property, and community infrastructure;

(c) Developing and adopting additional wildland fire suppression operations performance measures for large wildfires, and for aviation asset deployment, that go beyond the traditional output reporting of acres burned, dollars spent, and gallons of retardant dropped to demonstrate strategic use of high-cost human capital, equipment, and aircraft as opposed to traditional reliance on overwhelming force;

(d) Developing and adopting new technologies to bring to bear cutting-edge management of the wildland fire program to improve the safety, efficiency, and effectiveness of suppression operations;

(e) Developing and adopting data-driven decision-making in order to support infrastructure, allowing for better integration of wildland fire research and development into ground-level suppression operations and hazardous fuel mitigation;

(f) Evaluating personnel policies to ensure that they allow for the year-round availability of a well-trained firefighting force at all levels, from apprentice to incident command, and the most efficient division of responsibility between line officers and incident commanders to support wildfire response and hazardous fuels reduction;

(g) Strengthening government and industry collaboration with critical infrastructure owners and opera-

tors, including electric utilities, to better manage and mitigate risks, improve and invest in technology research and development, deploy technologies in concert with the private sector, exchange lessons learned in training and monitoring capabilities, and share operational practices;

(h) Examining regulatory and other issues that negatively impact hazardous fuel reduction and post-wildfire rehabilitation program performance, including coordination across agencies on projects requiring compliance with the National Environmental Policy Act, 42 U.S.C. 4321 et seq.;

(i) Coordinating among Federal land managers to assure efficient and consistent approaches between agencies to review and approve utility vegetation management actions to improve or maintain the reliability of the grid or reduce wildfire risk; and

(j) Developing a coordinated budget strategy that addresses the trade-offs between suppression, preparedness, post-wildfire rehabilitation, and fuels treatment to ensure a balanced commitment of resources and investment in areas at risk or affected by wildfire.

SEC. 6. *Report.* Within 1 year of the date of this order, and annually thereafter, the Wildland Fire Subcabinet shall update the Chairman of CEQ, the Director of OMB, the Director of OSTP, and the Director of the NEC on the status of the strategic plan and the specific actions identified in this order.

SEC. 7. *Administration.* The Department of Agriculture shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative support as needed for the Wildland Fire Subcabinet to implement this order. The Departments of the Interior and Agriculture shall consult with WFLC, as appropriate, to effectively carry out the requirements of this order.

SEC. 8. *Federal Advisory Committee Act.* The members of the Wildland Fire Subcabinet should, pursuant to and consistent with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in the interest of obtaining advice or recommendations for the Wildland Fire Subcabinet, use their advisory committees, as appropriate.

SEC. 9. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 1748b–1. Wildfire technology modernization

(a) Purpose

The purpose of this section is to promote the use of the best available technology to enhance the effective and cost-efficient response to wildfires—

(1) to meet applicable protection objectives; and

(2) to increase the safety of—

(A) firefighters; and

(B) the public.

(b) Definitions

In this section:

(1) Secretaries

The term “Secretaries” means—

(A) the Secretary of Agriculture; and

(B) the Secretary.

(2) Secretary concerned

The term “Secretary concerned” means—

(A) the Secretary of Agriculture, with respect to activities under the Department of Agriculture; and

(B) the Secretary, with respect to activities under the Department of the Interior.

(c) Unmanned aircraft systems

(1) Definitions

In this subsection, the terms “unmanned aircraft” and “unmanned aircraft system” have the meanings given those terms in section 44801 of title 49.

(2) Establishment of program

Not later than 180 days after March 12, 2019, the Secretary, in consultation with the Secretary of Agriculture, shall establish a research, development, and testing program, or expand an applicable existing program, to assess unmanned aircraft system technologies, including optionally piloted aircraft, across the full range of wildland fire management operations in order to accelerate the deployment and integration of those technologies into the operations of the Secretaries.

(3) Expanding use of unmanned aircraft systems on wildfires

In carrying out the program established under paragraph (2), the Secretaries, in coordination with the Federal Aviation Administration, State wildland firefighting agencies, and other relevant Federal agencies, shall enter into an agreement under which the Secretaries shall develop consistent protocols and plans for the use on wildland fires of unmanned aircraft system technologies, including for the development of real-time maps of the location of wildland fires.

(d) Location systems for wildland firefighters

(1) In general

Not later than 2 years after March 12, 2019, subject to the availability of appropriations, the Secretaries, in coordination with State wildland firefighting agencies, shall jointly develop and operate a tracking system (referred to in this subsection as the “system”) to remotely locate the positions of fire resources for use by wildland firefighters, including, at a minimum, any fire resources assigned to Federal type 1 wildland fire incident management teams.

(2) Requirements

The system shall—

(A) use the most practical and effective technology available to the Secretaries to remotely track the location of an active resource, such as a Global Positioning System;

(B) depict the location of each fire resource on the applicable maps developed under subsection (c)(3);

(C) operate continuously during the period for which any firefighting personnel are assigned to the applicable Federal wildland fire; and