

WHY DO WE NEED TO AMEND THE FOREST CONSERVATION ACT?

The Forest Conservation Act (FCA), which dates to 1939, is the “organic act” for the Forestry Division within EMNRD. Minor updates to the FCA were made in 1959, 1961, 1967, 1979 and 1987. More than 35 years have passed since the last updates to the FCA, which as currently written is overly focused on commercial forestry and fire suppression.

The 2022 wildfires and post-fire floods provided clear evidence that the needs of New Mexico’s forests are broader than timber production and putting out fires. For example, the FCA does not clearly authorize the Division’s current work on forest health, forest and watershed restoration, or post-fire recovery.

Furthermore, the proposed amendment is also needed to memorialize that the State of New Mexico is authorized to accept federal funding assistance to states under the federal Cooperative Forestry Assistance Act of 1978. The FCA currently cites two federal laws – the Cooperative Forest Management Act and the Forest Pest Control Act – that have been repealed.

FOR MORE REASONS TO AMEND THE FOREST CONSERVATION ACT, SEE THE OTHER SIDE OF THIS FLYER!



FOREST CONSERVATION ACT AMENDMENTS (HB 195)

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WHAT DOES HB 195 ACCOMPLISH?

HB 195 will update the Forest Conservation Act (FCA) to:

- cite the correct federal laws that provide federal forestry funding assistance to states;
- strike outdated language that conflicts with current state and federal policies; and
- strike definitions that are not used.

The amendments in HB 195 will also recognize that the Energy, Minerals and Natural Resources Department (EMNRD), Forestry Division is the contracting agent for the state for:

- forest fire suppression rehabilitation and repair;
- post-fire slope stabilization, erosion control, riparian restoration, seeding and reforestation of burned areas; and
- forest conservation and forest health.

The amendments will also recognize that the Forestry Division has authority for forest fire suppression and rehabilitation and repair as part of its existing authority to suppress forest fires.

Finally, HB 195 will clarify the grant of authority to the Forestry Division to include conserving forest and forest resources and providing technical assistance to mitigate and adapt to changing climatic conditions.

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Qualify New Mexico to receive more federal funding.

Recent federal legislation including the 2018 Farm Bill, Infrastructure Investment and Jobs Act of 2021, and Inflation Reduction Act of 2022 authorized new forestry programs that New Mexico should participate in. These programs offer states funding for urban and community forestry, landscape scale restoration projects, stewardship planning for underserved landowners, and reforestation. The proposed amendments to the Forest Conservation Act will ensure New Mexico is fully authorized to receive as much federal assistance as possible and obtain federal grants under these programs.

Eliminate practices that conflict with today's firefighting safety standards.

An example of outdated language in the Forest Conservation Act is in Section 68-2-8(D) providing authority to the State Forester to deputize any able-bodied man to assist in suppressing forest fire. Were the Forestry Division to conscript firefighters in this way, without proper training and conditioning, the state would be violating its own safety standards as well as the requirements established in mutual-aid agreements with other states and federal cooperating agencies.

Clarify agency responsibility for slope stabilization and erosion control after wildfires.

As more lands are burned in New Mexico, the need to provide technical assistance and projects to address post-wildfire impacts to forests and watersheds has become more urgent. While several state agencies have related responsibilities, such as the Environment Department (NMED) for water quality, the Office of State Engineer and Interstate Stream Commission (OSE/ISC) for dams and safety, the Department of Agriculture (NMDA) for soil health, and the Department of Homeland Security and Emergency Management (DHSEM) for emergency response, no state agency currently has responsibility for post-fire slope stabilization and erosion control of forested areas. The amendment is needed for the Forestry Division to fill this gap by granting it authority for fire suppression rehabilitation and repair, post-fire slope stabilization and erosion control, riparian restoration, and seeding and reforestation of burned areas.

Provide a clear mandate for forest conservation and climate change mitigation and adaptation.

The FCA narrowly defines the mission of the Forestry Division as suppressing forest fires and regulating timber harvests on private lands. The amendment will modernize the Forestry Division's mission to include forest management for the purpose of conserving forest and forest resources and providing technical assistance to mitigate and adapt to changing climatic conditions. If not enacted, the Forestry Division will remain constrained in taking actions needed to improve forest health and resilience to drought, extreme weather, and other climate change impacts.