

FOREST EMERGENCY RECOVERY AND RESEARCH ACT

MAY 4, 2006.—Ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 4200]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4200) to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal lands damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as “Forest Emergency Recovery and Research Act”.

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

Sec. 1. Short title and table of contents
Sec. 2. Findings
Sec. 3. Definitions

TITLE I—RESPONSE TO CATASTROPHIC EVENTS ON FEDERAL LANDS

Sec. 101. Development of research protocols and use in catastrophic event research projects
Sec. 102. Catastrophic event recovery evaluations
Sec. 103. Compliance with National Environmental Policy Act
Sec. 104. Availability and use of pre-approved management practices
Sec. 105. Availability and use of emergency procedures

- Sec. 106. Administrative and judicial review
- Sec. 107. Guidance regarding reforestation in response to catastrophic events
- Sec. 108. Effect of title
- Sec. 109. Standards for tree retention

TITLE II—RESTORING LANDSCAPES AND COMMUNITIES IMPACTED BY CATASTROPHIC EVENTS

Subtitle A—Cooperative Forestry Assistance Act of 1978

- Sec. 201. Assistance under Cooperative Forestry Assistance Act of 1978 to restore landscapes and communities affected by catastrophic events

Subtitle B—Department of the Interior Assistance

- Sec. 211. Restoring landscapes
- Sec. 212. Restoring communities

TITLE III—EXPERIMENTAL FORESTS

- Sec. 301. Findings
- Sec. 302. Availability and use of pre-approved management practices on National Forest experimental forests
- Sec. 303. Limited consideration of alternatives for projects on National Forest experimental forests

TITLE IV—GENERAL PROVISIONS

- Sec. 401. Regulations
- Sec. 402. Dedicated source of funds for research and monitoring
- Sec. 403. Other funding sources
- Sec. 404. Effect of declaration of major disaster or emergency

SEC. 2. FINDINGS.

Congress finds the following:

(1) The number and severity of catastrophic events causing resource damage to Federal land has significantly increased over the last 20 years, and such catastrophic events also create serious adverse environmental, social, and economic consequences for Federal land and adjacent non-Federal land and communities.

(2) Catastrophic events often devastate forest or rangeland ecosystems and eliminate sources of seed for desired tree and plant species, which—

(A) delays or even precludes the reestablishment of appropriate forest or plant cover on millions of acres of Federal land;

(B) increases the susceptibility of the damaged land to wildfire and noxious or harmful species and reduces the economic value of the damaged land's resources;

(C) increases the susceptibility of adjacent undamaged land to insect infestations, disease, and noxious weeds;

(D) pollutes municipal water supplies and damages water delivery infrastructure;

(E) exacerbates sediment production that adversely impacts native fish habitat and soil productivity;

(F) results in unsafe campgrounds, trails, roads, and other infrastructure; and

(G) adversely impacts the sustainability of ecosystems and the well-being of adjacent communities.

(3) Program authorities and funding mechanisms currently available to the Secretary of Agriculture and the Secretary of the Interior to respond to catastrophic events on forested Federal land do not provide for consistent and timely response activities.

(4) The Council on Environmental Quality has approved on an infrequent basis the use of alternative arrangements to respond to catastrophic events on forested Federal land, but, when used in the past, such alternative arrangements have encouraged expedited and successful recovery outcomes.

(5) A prompt and standardized management response to a catastrophic event, which is also adaptive to the unique characteristics of each catastrophic event, is needed—

(A) to effectively recover the area damaged by the catastrophic event,

(B) to minimize the impact on the resources of the area and adjacent communities adversely affected by the catastrophic event; and

(C) to recover damaged, but still merchantable, material before it loses economic value.

(6) Reforestation treatments on forested Federal land after a catastrophic event helps to restore appropriate forest cover, which provides multiple renewable resource benefits, including—

(A) protecting soil and water resources;

(B) providing habitat for wildlife and fish;

(C) contributing to aesthetics and enhancing the recreational experience for visitors;

(D) providing a future source of timber for domestic use; and

(E) ensuring the health and resiliency of affected ecosystems for present and future generations.

(7) According to the Comptroller General, the reforestation backlog for Federal land has increased since 2000 as a result of natural disturbances, such as wildland fires, insect infestations, and diseases.

(8) Additional scientific and monitoring information is needed regarding the effectiveness of recovery treatments to improve subsequent recovery proposals in response to future catastrophic events.

(9) State, tribal, and local governments, local communities, and other entities play a critical role in restoring landscapes damaged by a catastrophic event and in reducing the risks associated with the catastrophic event.

(10) Greater resources and adaptive arrangements must be made available to land managers to facilitate the prompt implementation of recovery treatments, including reforestation, following catastrophic events.

SEC. 3. DEFINITIONS.

In this Act:

(1) **BURNED AREA EMERGENCY RESPONSE.**—The term “burned area emergency response” means the process used by the Secretary concerned to plan and implement emergency stabilization actions on Federal land in response to a catastrophic event in order to minimize threats to life or property or to stabilize and prevent unacceptable degradation to natural and cultural resources resulting from the effects of the catastrophic event.

(2) **CATASTROPHIC EVENT.**—The term “catastrophic event” means any natural disaster or any fire, flood, or explosion, regardless of cause, that the Secretary determines has caused or will cause damage of significant severity and magnitude to Federal land or, in the case of title II, non-Federal land. A natural disaster may include a hurricane, tornado, windstorm, snow or ice storm, rain storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, or insect or disease outbreak.

(3) **CATASTROPHIC EVENT RECOVERY.**—The term “catastrophic event recovery”, with respect to an area of Federal land damaged by a catastrophic event, means—

(A) if the catastrophic event involved fire, the rehabilitation and restoration activities (other than any emergency stabilization treatments undertaken as part of the burned area emergency response) that are undertaken on the damaged Federal land, including any infrastructure or facilities thereon, in response to the catastrophic event;

(B) if the catastrophic event did not involve fire, the emergency stabilization and rehabilitation and restoration activities that are undertaken on the damaged Federal land, including infrastructure or facilities thereon, in response to the catastrophic event; or

(C) the reforestation or revegetation, consistent with the applicable land and resource management plan, of the damaged Federal land in response to the catastrophic event using, to the extent practicable and preferable, native or beneficial plants to avoid creation of plantation forests and the recovery of trees on the damaged Federal land, through the use of timber harvesting and other appropriate methods of forest regeneration.

(4) **CATASTROPHIC EVENT RECOVERY EVALUATION.**—The term “catastrophic event recovery evaluation”, with respect to an area of Federal land damaged by a catastrophic event, means an evaluation of the damaged Federal land that is conducted in accordance with section 102.

(5) **CATASTROPHIC EVENT RECOVERY PROPOSAL.**—The term “catastrophic event recovery proposal” means the list and brief description of catastrophic event recovery projects, catastrophic event research projects, and pre-approved management practices that are—

(A) identified as part of the catastrophic event recovery evaluation of an area of Federal land damaged by a catastrophic event; and

(B) proposed to be undertaken to facilitate the catastrophic event recovery of the area or evaluate the effects and effectiveness of such recovery efforts.

(6) **CATASTROPHIC EVENT RECOVERY PROJECT.**—The term “catastrophic event recovery project” means an individual activity or a series of activities identified in a catastrophic event recovery proposal for an area of Federal land damaged by a catastrophic event and proposed to be undertaken in response to the catastrophic event to promote catastrophic event recovery.

(7) **CATASTROPHIC EVENT RESEARCH PROJECT.**—The term “catastrophic event research project” means a scientifically designed study of the effects and effectiveness of—

(A) any catastrophic event recovery projects undertaken in an area of land damaged by a catastrophic event; and

(B) any emergency stabilization treatments undertaken as part of a burned area emergency response in the area of land damaged by a catastrophic event.

(8) **COMMUNITY WILDFIRE PROTECTION PLAN.**—The term “community wildfire protection plan” has the meaning given that term in section 101(3) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511(3)).

(9) **ELIGIBLE ENTITY.**—The term “eligible entity”, for purposes of providing assistance under subtitle B of title II, means a State Forester or equivalent State official, an Indian tribe, local government, community-based organization, or other person.

(10) **FEDERAL LAND.**—The term “Federal land” means land in the National Forest System and public lands. The term does not include any land contained in a component of the National Wilderness Preservation System or designated as a national monument.

(11) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(12) **LAND AND RESOURCE MANAGEMENT PLAN.**—The term “land and resource management plan” means—

(A) a land and resource management plan developed for a unit of the National Forest System under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan developed for an area of the public lands under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(13) **LAND-GRANT COLLEGES AND UNIVERSITIES.**—The term “land-grant colleges and universities” has the meaning given that term in section 1404(11) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(11)).

(14) **LANDSCAPE ASSESSMENT.**—The term “landscape assessment” means an assessment describing catastrophic event conditions and recovery needs and opportunities on non-Federal land affected by a catastrophic event and including a list of proposed special recovery projects to address those needs and opportunities.

(15) **NATIONAL FOREST SYSTEM.**—The term “National Forest System” has the meaning given that term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(16) **PRE-APPROVED MANAGEMENT PRACTICE.**—The term “pre-approved management practice” means a management practice identified by the Secretary concerned under section 104(a) that may be immediately implemented as part of a catastrophic event recovery project or catastrophic event research project to facilitate the catastrophic event recovery of an area of Federal land damaged by a catastrophic event.

(17) **PUBLIC LANDS.**—The term “public lands” has the meaning given that term in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(18) **SECRETARY CONCERNED.**—The term “Secretary concerned” means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to public lands.

(19) **SPECIAL RECOVERY PROJECT.**—The term “special recovery project” means an individual activity or a series of activities proposed to be undertaken to rehabilitate, repair, and restore non-Federal land damaged by a catastrophic event, community infrastructure and facilities on the land, and economic, social, and cultural conditions affected by the catastrophic event.

TITLE I—RESPONSE TO CATASTROPHIC EVENTS ON FEDERAL LANDS

SEC. 101. DEVELOPMENT OF RESEARCH PROTOCOLS AND USE IN CATASTROPHIC EVENT RESEARCH PROJECTS.

(a) **DEVELOPMENT OF PROTOCOLS; PURPOSE.**—For the purpose of conducting and evaluating the effectiveness and effects of a catastrophic event recovery project and of emergency stabilization treatments undertaken as part of a burned area emer-

gency response, the Secretary concerned shall develop research protocols consisting of—

- (1) a research approach that is specifically designed to improve knowledge, understanding, and predictive capabilities—
 - (A) to increase the long-term benefits of management activities, including natural and artificial regeneration of vegetation; and
 - (B) to decrease the short-term impacts of such management activities;
 - (2) an appropriate and scientifically sound experimental design or set of sampling procedures; and
 - (3) accompanying methods of data analysis and interpretation.
- (b) **PEER REVIEW.**—The research protocols developed under subsection (a), and any subsequent modification thereof, shall be subject to peer review, including independent, third-party peer review, by scientific and land management experts.
- (c) **TIME FOR COMPLETION; MODIFICATION.**—The research protocols required by this section shall be submitted to Congress not later than 180 days after the date of the enactment of this Act. The Secretary concerned may modify the research protocols, as the Secretary determines necessary, after their submission to Congress. The Secretary concerned shall notify Congress regarding any such modification.
- (d) **CATASTROPHIC EVENT RESEARCH PROJECTS.**—In accordance with the research protocols developed under this section, the Secretary concerned may conduct one or more catastrophic event research projects in an area of land damaged by a catastrophic event. The Secretary may develop a proposed catastrophic event research project as part of a catastrophic event recovery proposal or develop a catastrophic event research project independently of the catastrophic event recovery proposal during the catastrophic event recovery in response to changing conditions in the area damaged by the catastrophic event.
- (e) **PUBLIC ACCESS.**—
- (1) **PROTOCOLS.**—The Secretary concerned shall make the research protocols developed under subsection (a), including any modification thereof, publicly available, in a form determined to be appropriate by the Secretary.
 - (2) **RESEARCH RESULTS.**—After completion of the peer review required by subsection (b), the Secretary concerned shall make the results of catastrophic event research projects publicly available, in a form determined to be appropriate by the Secretary.
- (f) **FOREST HEALTH PARTNERSHIPS.**—In developing and using the research protocols required by this section, the Secretary concerned shall enter into cooperative agreements with land-grant colleges and universities and other institutions of higher education to form forest health partnerships, including regional institutes, to utilize their education, research, and outreach capacity to address the catastrophic event recovery of forested land. A forest health partnership may be aligned with the current network of Cooperative Ecosystem Studies Units.

SEC. 102. CATASTROPHIC EVENT RECOVERY EVALUATIONS.

- (a) **COMMENCEMENT.**—
- (1) **EVALUATION REQUIRED.**—In response to a catastrophic event affecting 1,000 or more acres of Federal land, the Secretary concerned shall conduct a catastrophic event recovery evaluation of the damaged Federal land.
 - (2) **EVALUATION AUTHORIZED.**—If a catastrophic event affects more than 250 acres of Federal land, but less than 1,000 acres, the Secretary concerned is authorized, but not required, to conduct a catastrophic event recovery evaluation of the damaged Federal land.
 - (3) **TIME FOR COMMENCEMENT.**—To facilitate prompt decision-making with regard to the catastrophic event recovery of Federal land damaged by a catastrophic event when a catastrophic event recovery evaluation is required under paragraph (1), the Secretary concerned shall commence the catastrophic event recovery evaluation for the damaged Federal land—
 - (A) as soon as practicable during or after the conclusion of the catastrophic event; but
 - (B) in no event later than 30 days after the conclusion of the catastrophic event.
- (b) **COMPLETION.**—
- (1) **TIME FOR COMPLETION.**—To facilitate prompt implementation of catastrophic event recovery projects on Federal land damaged by a catastrophic event when a catastrophic event recovery evaluation is required under subsection (a)(1), the Secretary concerned shall complete the catastrophic event recovery evaluation for the damaged Federal land not later than 30 days after the date on which Secretary commenced the catastrophic event recovery evaluation.
 - (2) **EXTENSION.**—The Secretary concerned may extend the completion date for a catastrophic event recovery evaluation, on a case-by-case basis, when the Sec-

retary concerned determines that additional time is necessary to evaluate a complex catastrophic event, an on-going catastrophic event, or a series of catastrophic events.

(c) ELEMENTS OF CATASTROPHIC EVENT EVALUATION.—In conducting the catastrophic event recovery evaluation for an area of Federal land damaged by a catastrophic event, the Secretary concerned shall prepare the following:

(1) A description of catastrophic event conditions on the damaged Federal land, recovery needs and opportunities, and the areas where management intervention would be helpful to achieve the catastrophic event recovery of the damaged Federal land.

(2) A preliminary determination of any catastrophic event research projects that best fit the circumstances of the particular catastrophic event environment or would enhance scientific understanding relevant to the damaged area.

(3) A catastrophic event recovery proposal containing possible catastrophic event recovery projects and catastrophic event research projects for the damaged area and describing the anticipated size and scope of these projects.

(4) One or more maps detailing the area of damaged Federal land and the location of catastrophic event recovery proposals.

(5) A preliminary estimate of the funding that would be needed to complete the catastrophic event recovery projects and catastrophic event research projects contained in the catastrophic event recovery proposal.

(6) A preliminary estimate of the receipts to be derived from the catastrophic event recovery projects and catastrophic event research projects contained in the catastrophic event recovery proposal, and, to the maximum extent practicable, an estimate of revenues likely to be lost if action is not taken in a timely manner.

(7) A preliminary schedule showing the timing of possible catastrophic event recovery projects and catastrophic event research projects by fiscal year, assuming funding is available to undertake the projects.

(d) USE OF PRE-APPROVED MANAGEMENT PRACTICES OR EMERGENCY PROCEDURES.—

(1) DETERMINATION.—In addition to complying with the requirements specified in subsection (c) for each catastrophic event recovery evaluation, the Secretary concerned shall make a determination of—

(A) whether or not any pre-approved management practices should be immediately implemented under section 104 to facilitate the catastrophic event recovery of the area covered by the catastrophic event recovery evaluation; and

(B) whether or not any catastrophic event recovery project or catastrophic event research project, or portion of such a project, contained in the catastrophic event recovery proposal should be developed and carried out using the emergency procedures authorized by section 105.

(2) FACTORS.—In making any determination under paragraph (1)(B) to develop and carry out a catastrophic event recovery project or catastrophic event research project, or portion of such a project, using emergency procedures under section 105, the Secretary concerned shall consider at a minimum the following:

(A) The necessity of promptly responding to the catastrophic event on the damaged Federal land.

(B) The recovery needs and opportunities identified under subsection (c)(1) with respect to the damaged Federal land.

(C) The lack of pre-approved management practices applicable to the damaged Federal land.

(D) The threat to public health and safety.

(E) The likelihood of substantial loss of adjacent private and public property or other substantial economic losses.

(3) NOTIFICATION AND CONSULTATION.—The Secretary concerned shall make the determinations under paragraph (1) after notification of and in consultation with the Council on Environmental Quality, but the determination remains in the sole discretion of the Secretary.

(e) INTERDISCIPLINARY APPROACH.—To conduct the catastrophic event recovery evaluation of an area of Federal land damaged by a catastrophic event, the Secretary concerned shall use a systematic, interdisciplinary approach that insures the integrated use of appropriate natural and social sciences.

(f) COORDINATION WITH OTHER ACTIVITIES.—

(1) RELATED ASSESSMENT OF NON-FEDERAL LAND.—The Secretary concerned may combine the preparation of a catastrophic event recovery evaluation of Federal land with the preparation of a landscape assessment for non-Federal land in the vicinity of the damaged Federal land prepared under subtitle B of title

II or subsection (c) of section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c), as added by section 201.

(2) RELATED COMMUNITY WILDFIRE PROTECTION PLANS.—During preparation of a catastrophic event recovery evaluation for an area of Federal land damaged by a catastrophic event involving wildfire, the Secretary concerned shall consider post-fire management recommendations, if any, contained in any community wildfire protection plan addressing the damaged Federal land.

(g) PUBLIC COLLABORATION.—To encourage meaningful participation during the preparation of catastrophic event recovery projects, the Secretary concerned shall facilitate collaboration among State and local governments, Indian tribes, land-grant colleges and universities, and interested persons during the preparation of catastrophic event recovery evaluations and catastrophic event recovery proposals.

(h) PUBLIC NOTICE.—

(1) NOTICE OF EVALUATION.—The Secretary concerned shall provide public notice of each catastrophic event recovery evaluation, including the catastrophic event recovery proposal prepared as part of the evaluation. The notice shall be provided in a form determined to be appropriate by the Secretary concerned, such as publication in the Federal Register.

(2) NOTICE OF PUBLIC MEETINGS.—The Secretary concerned shall provide notice of public meetings conducted in connection with a catastrophic event recovery evaluation and the availability of preliminary analyses or documents prepared as part of the evaluation. The notice shall be provided at such times and in such a manner as the Secretary concerned considers appropriate.

SEC. 103. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

(a) COMPLIANCE REQUIRED.—Except as provided in subsection (b), the Secretary concerned shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.), its implementing regulations, and other applicable laws in designing and conducting catastrophic event recovery projects and catastrophic event research projects.

(b) SATISFACTION OF NEPA REQUIREMENTS.—The following activities are deemed to satisfy the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 et seq.) and its implementing regulations:

(1) The preparation of the list of pre-approved management practices required by subsection (a) of section 104.

(2) The use of pre-approved management practices on the list in the manner provided in section 104.

(3) The use of emergency procedures in the manner provided in section 105.

SEC. 104. AVAILABILITY AND USE OF PRE-APPROVED MANAGEMENT PRACTICES.

(a) LIST OF AVAILABLE PRE-APPROVED MANAGEMENT PRACTICES.—The Secretary concerned shall prepare a list of management practices, by forest type or plant association group, that may be immediately implemented as part of a catastrophic event recovery project or catastrophic event research project to facilitate the catastrophic event recovery of an area of Federal land damaged by a catastrophic event. The list of pre-approved management practices shall be prepared using notice and comment rule making under section 553 of title 5, United States Code.

(b) PEER REVIEW.—Before a management practice may be included on the list of pre-approved management practices, the management practice shall be subject to peer review, including independent, third-party peer review, by scientific and land management experts. The results of the peer review shall be available to the public during the comment period.

(c) REVISION OR AMENDMENT OF LIST.—The Secretary concerned may amend or revise the list of pre-approved management practices as necessary whenever new scientific and managerial information becomes available. Subsections (a) and (b) shall apply to the amendment or revision process.

(d) USE FOR CERTAIN ACTIVITIES PROHIBITED.—

(1) ROAD CONSTRUCTION.—A pre-approved management practice may not authorize any permanent road building. Any temporary road constructed as part of a pre-approved management practice shall be obliterated upon conclusion of the practice and the road area restored to the extent practicable.

(2) TIMBER HARVESTING.—Timber harvesting carried out as part of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section were used shall be limited to trees—

(A) that are already down, dead, broken, or severely root sprung;

(B) regarding which mortality is highly probable within five years after the end of the catastrophic event; or

(C) that are required to be removed for worker or public safety.

(c) REQUIRED CONSULTATION.—

(1) **ESA CONSULTATION.**—In the case of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section are used, the Secretary concerned may use the procedures described in section 402.05 of title 50, Code of Federal Regulations, to comply with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536). At the conclusion of the consultation, the statement required by subsection (b)(4) of such section shall be issued for any incidental taking that may occur under the project, which shall be effective beginning on the date the Secretary concerned initiates action under the project and shall apply to all persons assisting or cooperating with the Secretary under the project.

(2) **OTHER REQUIRED CONSULTATION.**—Any consultation required under other laws, such as the National Historic Preservation Act (16 U.S.C. 470 et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), may proceed simultaneously with the design of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section are used. Results of consultation shall be immediately incorporated into the project, to the extent feasible, practical, and consistent with the response, recovery, and rehabilitation objectives of the project.

(d) **COMPLETION OF EMERGENCY PROCEDURES AND ISSUANCE OF DECISION DOCUMENT.**—Not later than 90 days after the date on which the Secretary concerned makes the determination under section 102(d) to develop and carry out a catastrophic event recovery project or catastrophic event research project, or portion of such a project, using emergency procedures, the Secretary concerned shall—

(1) complete the emergency procedures for that catastrophic event recovery project or catastrophic event research project, or portion thereof, under this section; and

(2) issue a concise decision document that contains the following:

(A) The rationale for the agency decision.

(B) An economic analysis and justification.

(C) An analysis of the environmental effects of the project and how such effects will be minimized or mitigated consistent with the applicable land and resource management plan. As part of this analysis, the Secretary concerned shall consider, to the extent the Secretary concerned determines appropriate, forest type or plant association group, standing- and down-dead wood, watershed, water quality, wildlife habitat, and soils applicable to the damaged Federal land.

(e) **IMMEDIATE IMPLEMENTATION.**—In the case of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures authorized by this section are used, the Secretary concerned shall implement the project, or portion of the project, immediately after the issuance of the decision document under subsection (d), subject only to the availability of funds for the project.

(f) **MONITORING.**—To monitor a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures authorized by this section were used, the Secretary concerned may establish a third-party monitoring group, as determined to be appropriate by the Secretary.

SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) **ADMINISTRATIVE REVIEW GENERALLY.**—Except as provided in subsection (b), nothing in this title affects—

(1) the notice, comment, and appeal requirements of section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public 102–381; 16 U.S.C. 1612 note); and

(2) section 215 of title 36, Code of Federal Regulations.

(b) **PREDECISIONAL ADMINISTRATIVE NOTICE, COMMENT, AND REVIEW.**—

(1) **INTERIM FINAL REGULATIONS.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process that will serve as the sole means by which—

(A) the Secretary of Agriculture will provide notice of and solicit comments regarding—

(i) the proposed use of a pre-approved management practice under section 104 on National Forest System land; and

(ii) a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures under section 105 are used on National Forest System land; and

(B) a person can seek administrative review regarding—

- (i) the proposed use of a pre-approved management practice under section 104 on National Forest System land; and
 - (ii) a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures under section 105 are used on National Forest System land.
- (2) PERIOD COVERED BY REVIEW PROCESS.—The review portion of the predecisional administrative review process described in paragraph (1)(B) shall occur during the period—
- (A) beginning on the date on which the Secretary of Agriculture makes a determination to use pre-approved management practices or emergency procedures under section 102(d); and
 - (B) ending not later than the date of the issuance of applicable decision document under section 104 or 105.
- (3) EFFECTIVE DATE.—The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.
- (4) FINAL REGULATIONS.—The Secretary of Agriculture shall promulgate final regulations to establish the predecisional administrative review process described in paragraph (1) as soon as practicable after the interim final regulations have been promulgated and a reasonable period of time has been provided for public comment.
- (c) JUDICIAL REVIEW.—Section 106 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6516) shall apply with respect to the implementation of a pre-approved management practice under section 104 or a catastrophic event recovery project or catastrophic event research project regarding which the applicable administrative review process has been exhausted. In any proceeding for judicial review of agency action under this subsection, attorney fees awarded to a prevailing party may not exceed the hourly rates established in section 3006A of title 18, United States Code.

SEC. 107. GUIDANCE REGARDING REFORESTATION IN RESPONSE TO CATASTROPHIC EVENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall—

- (1) standardize the collection, reporting, and review procedures for data regarding more aggressive, expedited, and comprehensive reforestation in response to catastrophic events by clarifying agency-wide guidance and developing standard protocols for determining when and how reforestation can be best achieved as part of the response to catastrophic events;
- (2) clarify agency-wide guidance regarding reforestation in response to catastrophic events to ensure that such guidance is consistent with agency goals and budget constraints; and
- (3) clarify agency-wide guidance regarding the development, during the revision of a land and resource management plan, of goals and objectives for catastrophic event recovery to ensure that such guidance addresses catastrophic event recovery objectives, by forest type or plant association group, related to standing- and down-dead wood, soil and watershed protection, wildlife habitat, and other resource values.

SEC. 108. EFFECT OF TITLE.

(a) USE OF OTHER AUTHORITIES.—Nothing in this title affects the use by the Secretary concerned 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 catastrophic event recovery project or catastrophic event research project, or portion of such a project, that is not conducted using the emergency procedures authorized by section 105.

(b) PREFERENCE FOR LOCAL OPERATORS.—In the manner provided in section 420 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 553), the Secretary concerned may give consideration to local contractors in awarding a Federal contract to implement—

- (1) a pre-approved management practice under section 104; or
- (2) a catastrophic event recovery project or catastrophic event research project, or portions of such a project, for which the emergency procedures under section 105 are used.

(c) ADVISORY COMMITTEES.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to—

- (1) the peer review provided by scientific and land management experts under section 101(b) or 104(b);
- (2) the monitoring process under section 104(h) or 105(f); and
- (3) the preparation of a catastrophic event recovery evaluation or catastrophic event recovery proposal.

SEC. 109. STANDARDS FOR TREE RETENTION.

(a) **SNAGS AND DOWNED WOOD.**—In planning or conducting any catastrophic event recovery project or catastrophic event research project, the Secretary concerned shall ensure that—

(1) at a minimum, a distribution of standing snags and downed wood of the oldest age class is retained on site necessary to provide habitat for associated species through various stages of forest development and to provide a long-term nutrient source; and

(2) within the oldest age class on site, priority is given, to the extent practicable, to retaining the more decay-resistant species.

(b) **EXCEPTION.**—Subsection (a) shall not apply in the case of academic research, either by an accredited research university or a Forest Service Research Station, or when the applicable land and resource management plan contains more restrictive guidelines for snags and downed wood.

(c) **PLAN AMENDMENT.**—The Secretary concerned may amend a land and resource management plan to incorporate snags and downed wood retention guidelines, specific to forest type or plant association group.

TITLE II—RESTORING LANDSCAPES AND COMMUNITIES IMPACTED BY CATASTROPHIC EVENTS

Subtitle A—Cooperative Forestry Assistance Act of 1978

SEC. 201. ASSISTANCE UNDER COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978 TO RESTORE LANDSCAPES AND COMMUNITIES AFFECTED BY CATASTROPHIC EVENTS.

(a) **ASSISTANCE AUTHORIZED.**—Section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

“(c) **RESPONSE TO CATASTROPHIC EVENTS AFFECTING NON-FEDERAL LANDS.**—

“(1) **LANDSCAPE ASSESSMENTS.**—At the request of an eligible entity, the Secretary may cooperate with the eligible entity in the preparation of a landscape assessment for non-Federal lands affected by a catastrophic event. The Secretary may combine the preparation of a landscape assessment with the preparation of a catastrophic event recovery evaluation under title I of the Forest Emergency Recovery and Research Act regarding Federal land in the vicinity of the damaged non-Federal land.

“(2) **COMMUNITY ASSESSMENTS.**—At the request of an eligible entity affected by a catastrophic event, the Secretary may cooperate with the eligible entity in the preparation of a community wildfire protection plan or related plan.

“(3) **DECISION TO PROVIDE ASSESSMENT ASSISTANCE.**—In response to the request of an eligible entity for assistance under paragraph (1) or (2), the Secretary shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

“(4) **TYPES OF ASSISTANCE.**—The Secretary concerned may provide technical and financial cost-share assistance to an eligible entity—

“(A) to assist in the preparation of a landscape assessment under paragraph (1) or a community wildfire protection plan, community assessment, or community action plan under paragraph (2); and

“(B) to implement special recovery projects identified in the landscape assessment or community wildfire protection plan, community assessment, or community action plan.

“(5) **SPECIAL RECOVERY PROJECTS.**—Special recovery projects supported under paragraph (4)(B) may include projects involving—

“(A) revegetation, tree planting, and other management practices the Secretary determines to be appropriate;

“(B) developing products from and markets for timber harvested in response to a catastrophic event and remaining forest resources;

“(C) training for the local populace for work in connection with catastrophic event recovery;

“(D) repair of forest roads, bridges, and trails and water supply areas affected by a catastrophic event; and

“(E) such other activities as the Secretary determines to be necessary to undertake the special recovery project.

“(6) ADDITIONAL FUNDING SOURCES.—Amounts appropriated to the Secretary to carry out sections 8 and 10 may be used to provide assistance under this subsection.

“(7) DEFINITIONS.—In this subsection:

“(A) The term ‘eligible entity’ means a State Forester or equivalent State official, an Indian tribe, or local government. The term may include community-based organizations and other persons working in conjunction with a State Forester or equivalent State official, an Indian tribe, or local government.

“(B) The terms ‘catastrophic event’, ‘landscape assessment’, and ‘special recovery project’ have the meanings given those terms in section 3 of the Forest Emergency Recovery and Research Act.

“(C) The term ‘community wildfire protection plan’ has the meaning given that term in section 101(3) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511(3)).”

(b) CLERICAL AMENDMENT.—The heading of such section is amended by inserting before the period at the end the following: “and response to catastrophic events”.

Subtitle B—Department of the Interior Assistance

SEC. 211. RESTORING LANDSCAPES.

(a) LANDSCAPE ASSESSMENTS.—At the request of an eligible entity, the Secretary of the Interior may cooperate with the eligible entity in the preparation of a landscape assessment for non-Federal lands affected by a catastrophic event. The Secretary may combine the preparation of a landscape assessment with the preparation of a catastrophic event recovery evaluation under title I regarding Federal land in the vicinity of the damaged non-Federal land.

(b) DECISION TO PROVIDE ASSESSMENT ASSISTANCE.—In response to the request of an eligible entity for assistance under subsection (a), the Secretary of the Interior shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

(c) TYPES OF ASSISTANCE.—The Secretary of the Interior may provide technical and financial cost-share assistance to an eligible entity—

- (1) to assist in the preparation of a landscape assessment; and
- (2) to implement special recovery projects identified in the landscape assessment.

(d) SPECIAL RECOVERY PROJECTS.—The Secretary of the Interior may provide assistance under subsection (c)(2) for special recovery projects, including revegetation, tree planting, and other practices the Secretary determines to be appropriate.

SEC. 212. RESTORING COMMUNITIES.

(a) COMMUNITY ASSESSMENTS.—At the request of an eligible entity affected by a catastrophic event, the Secretary of the Interior may cooperate with the eligible entity in the preparation of a community wildfire protection plan or related plan.

(b) DECISION TO PROVIDE ASSESSMENT ASSISTANCE.—In response to the request of an eligible entity for assistance under subsection (a), the Secretary of the Interior shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

(c) TYPES OF ASSISTANCE.—The Secretary of the Interior may provide technical and financial cost-share assistance to an eligible entity—

- (1) to assist in the preparation of development of a community wildfire protection plan, a community assessment, or a community action plan; and
- (2) to implement special recovery projects identified in a community wildfire protection plan, a community assessment, or a community action plan.

(d) SPECIAL RECOVERY PROJECTS.—Special recovery projects supported under subsection (c)(2) may include projects involving—

- (1) developing products from and markets for timber harvested in response to a catastrophic event and remaining forest resources;

- (2) training for the local populace for work in connection with catastrophic event recovery;
- (3) repair of forest roads, bridges, and trails and water supply areas affected by a catastrophic event; and
- (4) such other activities as the Secretary determines to be necessary to undertake the special recovery project.

TITLE III—EXPERIMENTAL FORESTS

SEC. 301. FINDINGS.

Congress finds the following:

- (1) The experimental forests established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551) serve as a natural laboratory for the Forest Service to evaluate management practices generally and specific responses to catastrophic events that can be eventually used throughout the National Forest System.
- (2) To build upon the knowledge base to be developed using catastrophic events research projects conducted under title I, the Secretary of Agriculture should be authorized to use the same authorities provided under sections 104 and 105 to design and carry out projects in the experimental forests.

SEC. 302. AVAILABILITY AND USE OF PRE-APPROVED MANAGEMENT PRACTICES ON NATIONAL FOREST EXPERIMENTAL FORESTS.

Management practices included on the list of pre-approved management practices prepared under subsection (a) of section 104 may be implemented, in the manner provided by such section, in an experimental forest established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551).

SEC. 303. LIMITED CONSIDERATION OF ALTERNATIVES FOR PROJECTS ON NATIONAL FOREST EXPERIMENTAL FORESTS.

Section 105(a) shall apply with respect to any individual activity or a series of activities proposed to be undertaken in an experimental forest established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551).

TITLE IV—GENERAL PROVISIONS

SEC. 401. REGULATIONS.

Except as provided in section 106(b), the Secretary concerned is not required to promulgate regulations to implement this Act.

SEC. 402. DEDICATED SOURCE OF FUNDS FOR RESEARCH AND MONITORING.

- (a) **SPECIAL ACCOUNT.**—The Secretary of the Treasury shall establish a special account in the Treasury for each Secretary concerned.
- (b) **DEPOSITS.**—Ten percent of the gross proceeds derived by the Secretary concerned from catastrophic event recovery projects and catastrophic event research projects conducted by the Secretary concerned under title I shall—
 - (1) be deposited in the special account established for that Secretary; and
 - (2) remain available, without further appropriation and until expended, for expenditure as provided in subsection (c).
- (c) **RESEARCH-RELATED USE OF SPECIAL ACCOUNTS.**—The Secretary concerned shall use amounts in the special account established for that Secretary—
 - (1) to develop research protocols under section 101;
 - (2) to prepare and implement catastrophic event research projects; and
 - (3) to provide for monitoring under sections 104 and 105.
- (d) **RELATION TO OTHER FUNDS.**—Amounts in the special account established for the Secretary concerned are in addition to other amounts available to that Secretary for the purposes described in subsection (c).

SEC. 403. OTHER FUNDING SOURCES.

(a) **AVAILABILITY OF KNUTSON-VANDEMBERG FUNDS.**—Section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended—

- (1) by striking “Such deposits shall be covered” and inserting the following:

“(b) Amounts deposited under subsection (a) shall be covered”;

(2) by inserting after “national park.” the following new sentence: “The Secretary of Agriculture may also use excess amounts to cover the costs of activities of the Secretary under title I of the Forest Emergency Recovery and Research Act.”; and

(3) in subsection (c)—

(A) in paragraph (1), by striking “and”;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) the excess amounts will not be needed for activities of the Secretary under title I of the Forest Emergency Recovery and Research Act during the fiscal year in which the transfer would be made; and”.

(b) AVAILABILITY OF FOREST SERVICE SALVAGE SALE FUNDS.—Section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)) is amended—

(1) in the fourth sentence, by inserting after “the purposes for which deposited” the following: “and to cover the costs of activities of the Secretary under title I of the Forest Emergency Recovery and Research Act”; and

(2) in last proviso, by striking “for which deposited on any national forest” and inserting “for which deposits of money are available under this subsection”.

(c) AVAILABILITY OF BLM REVOLVING FUND DERIVED FROM DISPOSAL OF SALVAGE TIMBER.—The first paragraph under the headings “FOREST ECOSYSTEMS HEALTH AND RECOVERY” and “REVOLVING FUND, SPECIAL ACCOUNT” in title I of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 106 Stat. 1376; 43 U.S.C. 1736a), is amended by adding at the end the following new sentence: “The money in this fund shall likewise be immediately available to cover the costs of activities of the Bureau of Land Management under title I of the Forest Emergency Recovery and Research Act.”.

SEC. 404. EFFECT OF DECLARATION OF MAJOR DISASTER OR EMERGENCY.

If an area of non-Federal land damaged by a catastrophic event is also covered by a declaration by the President under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191) that a major disaster or emergency exists, the Director of Federal Emergency Management Agency may use funds available for activities under that Act to reimburse the Secretary concerned for assistance in that area provided under—

(1) subtitle B of title II; or

(2) subsection (c) of section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c), as added by section 201.

PURPOSE OF THE BILL

The purpose of H.R. 4200 is to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal land damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Natural catastrophes such as tornadoes, wind storms, and insect epidemics are frequent occurrences in the forests of the United States. Large-scale catastrophic wildfires have become more common in recent years and are expected to continue until the general health of federal forests is restored. With approximately 190 million acres of federal land at high risk of catastrophic fire, restoration of forests will take many years. Under current authorities and time lines, recovery projects often take so long as to eliminate any economic benefits—lost revenues that could otherwise help pay for restoration and reforestation. Rapid assessment of damage, quick action, and funding are needed following catastrophic events to restore landscapes and avoid adding to the reforestation backlog.

Furthermore, research is needed on the effects and effectiveness of some post-catastrophe treatments. The Healthy Forests Restoration Act (HFRA) gave land managers the tools they needed to conduct hazardous fuels reduction projects, preventing wildfires, protecting communities, and restoring forest health, but it did not address rehabilitation after catastrophic events. H.R. 4200 would fill that void.

POST CATASTROPHIC EVENT RECOVERY PROPOSAL AND PROJECT

Post-catastrophic event recovery proposals and projects cover land managed by the Forest Service of the Department of Agriculture and the Bureau of Land Management of the Department of the Interior. A catastrophic event is defined as: regardless of cause, any fire, flood, explosion or natural disaster (including a hurricane, tornado, windstorm, snow or ice storm, rain storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, or insect and disease outbreak) that has or will cause significant damage to federal or non-federal land. Catastrophic events over 1,000 acres require a catastrophic event recovery evaluation by an interdisciplinary team of scientists and managers, completed in 30 days (or longer for unusually complex situations), which will determine whether expedited processes are necessary (in other words, if it is truly an emergency), or if current authorities are sufficient for recovery. Flexibility for insect and disease outbreaks are also provided in the time lines. Events affecting 250–1,000 acres may be, but are not required to be, evaluated. Following this rapid evaluation, the legislation does not require any further agency action. No timber harvest is required or mandated by H.R. 4200, and any action taken on an area must be consistent with the applicable forest or resource management plan.

If it is determined that prompt action is needed, the agencies have two possible options: (1) the use of pre-approved management practices; or (2) emergency procedures. Pre-approved management practices are essentially “best-management practices” for certain catastrophic events on certain forest types (for example: hurricanes in the southeast, ice storms in the Appalachians, tornadoes in the Allegheny, or fire in the northern Rockies). This includes catastrophic events that are somewhat common and in which there is applicable scientific research. A list of management practices would be developed through an agency rule making process, including notice and comment, and independent, third-party peer review. Instead of using agency time and resources on further analysis, pre-approved management practices could be implemented after the evaluation and subsequent decision document (totaling 60 days maximum—30 days for the evaluation and proposal and 30 days for the decision document).

Emergency procedures could be used in areas that do not have pre-approved management practices available. In this case, after the post-catastrophic event proposal is made public (again, completed within 30 days of the catastrophic event), the agency would receive another 90 days to publish a decision document. The decision document would include a rationale for the action, economic analysis and justification, and a statement of the environmental effects of the action and how beneficial effects will be enhanced and

adverse effects mitigated or minimized. Once the decision document is published, project implementation begins.

PUBLIC INVOLVEMENT

H.R. 4200 is designed to retain public involvement opportunities. Both use of pre-approved management practices and emergency procedures require public collaboration and notice, an analysis of the potential environmental effects and how beneficial effects may be enhanced and adverse effects minimized and mitigated, considering at a minimum forest type or plant association group, standing and down dead wood, watershed, water quality, wildlife habitat, and soils. H.R. 4200 emphasizes collaboration and cooperation with States, local governments, tribes, and others. The public will also have an opportunity to protest a proposed action. Agencies are allowed to give preference to local contractors for implementing projects. To the extent that Community Wildfire Protection Plans (as authorized in HFRA) address post-fire management plans, the agencies are required to consider them in developing projects.

PROHIBITIONS

All proposed actions must be consistent with applicable forest or resource land management plans. The Forest Service and the Bureau of Land Management must consider standing and downed wood retention for wildlife habitat. Tree removal is limited to trees that are downed, dead, broken, or severely root-sprung, where tree mortality is highly probable within five years (this is a Forest Service term of art), and where removal is necessary for worker or public safety. Permanent road building is prohibited and temporary roads must be reclaimed after the completion of the project. H.R. 4200 does not apply to Congressionally-designated wilderness areas or national monuments.

COMPLIANCE WITH ENVIRONMENTAL LAWS

H.R. 4200 complies with all environmental laws. Pre-approved management practices and emergency procedures, as outlined previously, would satisfy the National Environmental Policy Act if they are deemed necessary after an evaluation. The agency is required to study only two alternatives—the proposed action and no action. An analysis is required of the potential environmental effects and how such effects will be minimized and mitigated, considering at a minimum forest type or plant association group, standing and down dead wood, watershed, water quality, wildlife habitat, and soils. For compliance with Section 7 consultation under the Endangered Species Act (ESA), the agencies may use the emergency procedures as provided under ESA regulations. Additionally, projects must comply with all other environmental laws, including the National Historic Preservation Act and the Federal Water Pollution Control Act, and any consultation or compliance required under such laws. Consultation or compliance under such laws may proceed simultaneously with the implementation of the project. If consultation is not completed once the project begins, results of the consultation must be immediately incorporated into the project.

APPEALS AND REVIEW

H.R. 4200 mirrors the administrative appeals and judicial review processes implemented under the Healthy Forests Restoration Act, ensuring full public administrative and legal recourse. It also requires, just as HFRA, that the federal judiciary periodically review any preliminary injunctions issued against a project, or rule on the merits of the case. Additionally, it directs the Courts to consider the long-term environmental consequences associated with management inaction as compared to the potential short-term impacts of project implementation.

RESEARCH

H.R. 4200 also includes a significant research component. While there is a great deal of practical knowledge on actions that work best to rehabilitate land after catastrophic events, there is a lack of published research in some areas. This bill promotes research projects to be carried out in conjunction with, or independent of, catastrophic event recovery projects to fill these gaps in knowledge. It also requires the development of pre-approved management practices (as discussed previously). The agencies are required to work with universities and colleges in the development of research. Research conducted under the Act must be peer reviewed by independent, third-party scientific and land management experts, and made available to the public.

STATE AND PRIVATE LANDOWNER ASSISTANCE

H.R. 4200 amends the Cooperative Forestry Assistance Act of 1978 by allowing the agencies to work with State foresters, tribes, local government, community-based groups, and/or individuals to conduct a landscape assessment on non-federal land after a catastrophic event. Both technical and financial cost-share assistance may be made available for recovery projects on non-federal land if assistance is requested. The agencies may also assist both technically and financially in the preparation of a community wildfire protection plan (as defined in HFRA).

FUNDING

H.R. 4200 makes current funding more flexible for agency use and also creates a special account devoted to developing research protocols, research projects, and monitoring such projects. This dedicated fund will ensure that funding for research and monitoring will be available and useful for an adaptive management approach. Additionally, the Knutson Vandenberg Fund (from green timber sales), the Forest Service Salvage Fund (from salvage sales), and the Bureau of Land Management's Revolving Fund Derived from Disposal of Salvage Timber (salvage sales) could also be used to pay for projects. Finally, Federal Emergency Management Agency may reimburse the agencies for any assistance they provide to non-federal land designated as a federal disaster area.

COMMITTEE ACTION

H.R. 4200 was introduced on November 2, 2005, by Congressman Greg Walden (R-OR). The bill was referred primarily to the Com-

mittee on Resources, and within the Committee to the Subcommittee on Forest and Forest Health. The bill was additionally referred to the Committee on Agriculture and the Committee on Transportation and Infrastructure. On November 10, 2005, the Forests Subcommittee held a hearing on the bill. The Full Resources Committee initially met on March 15, 2006, to consider the bill; the markup was concluded on March 29, 2006. Congressman Walden offered an amendment in the nature of a substitute making several technical and some substantive changes to incorporate several recommendations and needed revisions. Congressman Nick J. Rahall II (D-WV) offered an amendment to the amendment that would have prohibited the use of emergency ESA consultation. It was not adopted by a roll call vote of 13 to 23, as follows:

Congressman Rahall offered another amendment to the amendment that would have prohibited expedited consultation required under other environmental laws. It was not adopted by a roll call vote of 14 to 23, as follows:

Congressman Flake (R-AZ) offered an amendment to the amendment requiring an estimate of the likely revenues lost if action is not taken in a timely manner. It was adopted by a voice vote. Congressman Tom Udall (D-NM) offered an amendment to the amendment requiring the Secretary to reject pre-approved management practices unless the Secretary can prove there would be no fire risks and no seedling mortality. The amendment was not agreed to by a roll call vote of 13 to 23, as follows:

Congressman Tom Udall offered another amendment requiring full National Environmental Policy Act compliance for projects authorized. The amendment was not agreed to by a roll call vote of 13 to 24, as follows:

Congressman DeFazio (D-OR) offered three amendments en bloc to the amendment that would have required forest plan amendments for specific pre-approved management practices, mandated stringent standards for tree retention and eliminated all public lands from the authorities in the bill except for those where timber production is the primary objective. The en bloc amendment was not adopted by a roll call vote of 13 to 25, as follows:

Congressman Jay Inslee (D-WA) offered two amendments en bloc to the amendment that would have prohibited projects in roadless areas and re-directed half of the funds in the Salvage Sale Fund to be used on decommissioning forest roads. The en bloc amendment failed by voice vote. Congresswoman Stephanie Herseth (D-SD) offered an amendment to the amendment that would require standards for tree retention of dead and downed wood for wildlife habitat and soil conservation. The amendment was agreed to by voice vote.

On behalf of Congressman Mark Udall (D-CO), Congressman Tom Udall offered an amendment exempting certain management areas from the bill. The amendment was not agreed to by a roll call vote of 13 to 25, as follows:

Congressman Walden's amendment in the nature of a substitute, as amended, was adopted by a voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by a roll call vote of 25 to 13, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. Short title and table of contents

This Act may be cited as the “Forest Emergency Recovery and Research Act.”

Section 2. Findings

This section provides findings for the Act.

Section 3. Definitions

Among other terms, the Act defines:

“Catastrophic event”—Regardless of cause, any fire, flood, explosion or natural disaster (including a hurricane, tornado, windstorm, snow or ice storm, rain storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, or insect and disease outbreak) that has or will cause significant damage to federal or non-federal land.

“Catastrophic event recovery”—The emergency stabilization, rehabilitation, restoration and reforestation that is undertaken in response to a catastrophic event. Reforestation is limited to native or beneficial plants (consistent with the land management plan) to avoid the creation of plantation forests.

“Catastrophic event recovery evaluation”—The evaluation conducted in accordance with Section 102 of the Act.

“Catastrophic event recovery proposal”—The list and brief description of catastrophic event recovery projects or research projects and pre-approved management practices that are recommended to rehabilitate the land.

“Catastrophic event recovery project”—The activities identified in the catastrophic event recovery proposal that will be implemented to promote recovery of the affected land.

“Catastrophic event research project”—The scientifically-designed study of the effects and effectiveness of catastrophic event recovery and emergency stabilization treatments for an area affected by a catastrophic event.

“Federal land”—National Forest or Bureau of Land Management land. Wilderness areas and National Monuments are not included.

“Pre-approved management practice”—A management practice under Section 104(a) that may be immediately implemented as part of a catastrophic event recovery or research project to facilitate recovery of the affected land. Such pre-approved management practices would be created through a rule making process for certain forest types, plant association groups or geographic areas where extensive research has been conducted resulting in generally agreed upon best management practices.

“Special recovery project”—For non-federal land, the activities proposed to promote recovery of the affected area.

TITLE I—RESPONSE TO CATASTROPHIC EVENTS ON
FEDERAL LANDS

Section 101. Development of research protocols and use in catastrophic event research projects

This section directs the relevant Secretary to develop research protocols through improved knowledge and research (which may be

done independently or in conjunction with a catastrophic event recovery project) on catastrophic event recovery and emergency stabilization. The objective of the protocols is to increase the long-term benefits of management activities and decrease short-term impacts of the catastrophic event. The protocols developed through the rule making process would undergo independent, third-party peer review, must be reported to Congress 180 days after enactment and must be made available to the public. The relevant Secretary must also enter into cooperative agreements with land-grant universities for research.

Section 102. Catastrophic event recovery evaluations

Catastrophic events over 1,000 acres require a catastrophic event recovery evaluation. Catastrophic events of more than 250 acres but less than 1,000 acres may (but are not required) be evaluated.

The evaluation must be completed in 30 days from the conclusion of the event and include a description of the event and recovery needs, a determination of research projects or protocols that best fit the event, a proposal containing the recovery and/or research project, map of the affected area, a preliminary funding estimate, a preliminary estimate of the receipts, and a preliminary schedule showing the timing of the project. The Secretary may extend catastrophic event evaluations beyond 30 days if necessary for unusually complex events.

The Secretary must then determine if pre-approved management practices can be implemented (Section 104) or if the use of emergency procedures (Section 105) is needed. In making the determination the Secretary must consider (but is not limited to) the need for prompt response, the recovery needs and opportunities, the threat to public health and safety, and the likelihood of substantial loss to adjacent private or federal property or other economic loss. The Secretary has sole discretion for the determination, but is required to notify and may consult with the Council on Environmental Quality.

The Secretary is required to use an interdisciplinary approach ensuring the use of both natural and social sciences, may coordinate with other landscape assessments for adjacent non-federal land in need of recovery and must collaborate with State and local governments, Indian Tribes, land-grant universities, and interested persons in the development of the evaluation and proposal.

The Secretary is required to provide public notice of each evaluation (including the recovery proposal) and must also provide notice of public meetings in a manner determined by the Secretary (such as publication in the Federal Register).

Section 103. Compliance with the National Environmental Policy Act

Except as provided by emergency procedures (Section 105) and pre-approved management practices (in which a post-catastrophic event evaluation must be done under Section 104) all projects must comply with the National Environmental Policy Act (NEPA). For emergency procedures, Section 105 would satisfy NEPA (this includes the evaluation, project proposal, notice, and appeals). The decision documents required in Sections 104 and 105 must have an

analysis of the environmental effects and how these effects would be mitigated or minimized.

Section 104. Availability and use of pre-approved management practices

The Secretary is directed to prepare a list of management practices that may be immediately implemented (after a post-catastrophic evaluation) as part of a recovery or research project to rehabilitate the affected land. Before a management practice is included on the list, it must be peer reviewed (by independent, third parties) and developed using standard public notice and comment rule making. The Secretary may amend or revise the list as necessary.

Permanent road building is prohibited; only temporary roads may be constructed and must be removed upon completion of the project. Timber harvesting is limited to trees that are down, dead, broken, or severely root sprung, where mortality is highly probable within five years of the event and where removal is necessary for worker or public safety.

For compliance with consultation under the Endangered Species Act (ESA), the Secretary may use emergency procedures as provided under ESA regulations. Consultation required under other laws (such as the National Historic Preservation Act or the Federal Water Pollution Control Act) may proceed simultaneously with the implementation of the pre-approved management practice. Results of the consultation must be immediately incorporated into the project. No laws are exempted.

A decision document must be issued not more than 30 days after the completion of the evaluation and must be immediately implemented. The decision document shall include: a description of the pre-approved management practice to be implemented, the rationale for the agency decision, an economic analysis and justification, and an analysis of the environmental effects of the management practice and how the effects will be minimized or mitigated consistent with the land management plan. As part of the analysis the Secretary must consider the forest type or plant association group, standing and down dead wood, watershed, water quality, wildlife habitat, and soils applicable to the damaged federal land. The Secretary may establish third-party monitoring.

Section 105. Availability and use of emergency procedures

If the Secretary utilizes emergency procedures to conduct a recovery or research project, the Secretary is not required to study or develop more than the proposed agency action and the alternative of no action under NEPA. Emergency procedures may not be used to construct permanent roads, and timber harvesting is limited to down/dead/severely root sprung trees, etc. (as described earlier in Section 104). ESA consultation and other consultations are the same as described in Section 104.

A decision document must be issued and immediately implemented no later than 90 days after the evaluation has been completed. The decision document must contain: a rationale for the agency decision, an economic analysis and justification, and a statement of the significant environmental effects of the action and how such impacts will be minimized or mitigated consistent with

the land management plan. As part of the analysis the Secretary must consider the forest type or plant association group, standing and down dead wood, watershed, water quality, wildlife habitat, and soils applicable to the damaged federal land. The Secretary may establish third-party monitoring.

Section 106. Administrative and judicial review

Except as provided for in Section 106(b), nothing in this title affects the Administrative Reform Act (notice, comments and appeals) or any legal action under law.

A person may seek administrative review through the pre-decisional appeals process similar to the Healthy Forests Restoration Act (HFRA) on pre-approved management projects (Section 104) and catastrophic event recovery or research projects (Section 105). Regulations will be promulgated for this process (both interim and final) and are subject to public notice and comment.

A person may seek judicial review under HFRA authorities (only after administrative review has been exhausted). Any attorneys' fees awarded to prevailing parties under the Equal Access to Justice Act may not exceed the hourly rates of a venue's public defenders.

Section 107. Guidance regarding reforestation in response to catastrophic events

The Secretary is required to standardize the collection and reporting of reforestation needs in response to catastrophic events through guidance. This guidance must be consistent with agency goals and budget.

Section 108. Effect of title

Nothing in Title I affects the relevant Secretary's use of other statutory or administrative authorities (including those under NEPA) to conduct a catastrophic event recovery project or catastrophic event research project, that is not conducted under emergency procedures (Section 105). The Secretary may give preference to local operators for projects/contracts authorized in this bill. The Federal Advisory Committee Act shall not apply for the peer review (Section 101(b)), the monitoring process (Section 104(h) or 105(f)) and the preparation of a catastrophic event recovery or research evaluation.

**TITLE II—RESTORING LANDSCAPES AND COMMUNITIES
IMPACTED BY CATASTROPHIC EVENTS**

Subtitle A—Cooperative Forestry Assistance Act of 1978

Section 201. Assistance under Cooperative Forestry Assistance Act of 1978 to restore landscapes and communities affected by catastrophic events

This section amends the Cooperative Forestry Assistance Act of 1978 by authorizing the Secretary to cooperate with an eligible entity at their request (State Forester, Indian Tribe, local government, community based organization or person) on a landscape assessment on non-federal land affected by a catastrophic event or for a community wildfire protection plan. The Secretary must make a

decision within 30 days and if the request is rejected, the Secretary must provide an explanation. The Secretary may provide both technical and financial cost-share assistance as well as assistance for community wildfire protection plans, landscape assessments and special recovery projects (revegetation, tree planting, product development from fire timber harvest, local workforce training and repair of public facilities).

Subtitle B—Department of the Interior Assistance

Section 211. Restoring landscapes

This section authorizes the Secretary of the Interior to cooperate with an eligible entity at their request (State Forester, Indian Tribe, local government, community based organization or person) on a landscape assessment for an area affected by a catastrophic event. The Secretary must make a decision within 30 days and if the request is rejected, the Secretary must provide an explanation. The Secretary may provide both technical and financial cost-share assistance as well as assistance for community wildfire protection plans, landscape assessments and special recovery projects (revegetation, tree planting, product development from fire timber harvest, local workforce training and repair of public facilities).

The Secretary may cooperate with an eligible entity to assist in the preparation of a community wildfire protection plan and may provide technical and financial cost-share assistance as well as assistance for special recovery projects.

TITLE III—EXPERIMENTAL FORESTS

Section 301. Findings

This section provides findings for the title.

Section 302. Availability and use of pre-approved management practices on National Forest experimental forests

This section authorizes the use of pre-approved management practices on experimental forests.

Section 303. Limited consideration of alternatives for projects on National Forest experimental forests

This section authorizes the use of emergency procedures (Section 105) in experimental forests.

TITLE IV—GENERAL PROVISIONS

Section 401. Regulations

Except as provides in Section 106(b) (pre-decisional appeals process), the Secretary is not required to promulgate regulations to implement this Act.

Section 402. Dedicated source of funds for research and monitoring

A special account is established for the development of research protocols (Section 101), and preparing and implementing catastrophic event research projects and monitoring under Sections 104 and 105. The account will be funded from 10% of the revenues generated from a catastrophic event recovery or research project.

Section 403. Other funding sources

The Knutson-Vandenberg Fund (from green timber sales), the Forest Service Salvage Fund (from salvage sales), and the Bureau Of Land Management's Revolving Fund Derived from Disposal of Salvage Timber (salvage sales) are amended to allow the agencies the flexibility to use those funds for pre-approved management practices and post catastrophic event recovery and research projects.

Section 404. Effect of declaration of major disaster or emergency

The Federal Emergency Management Agency may reimburse the Secretary concerned for any assistance provided to non-federal land designated as a federal disaster area.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of Rule X and clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill would increase direct spending by \$5 million in fiscal year 2007, but would reduce it by \$21 million over the 2007–2011 period and by \$23 million over the 2007–2016 period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the general performance goal or objective of this bill is to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal land damaged by catastrophic events, to revitalize Forest Service experimental forests.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 25, 2006.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4200, the Forest Emergency Recovery and Research Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 4200—Forest Emergency Recovery and Research Act

Summary: H.R. 4200 would establish new procedures for responding to catastrophic events causing damage to certain federal land. The legislation would direct the Secretaries of Agriculture and the Interior to establish research protocols for assessing methods of restoring federal land following such events and would specify expedited procedures for implementing projects to rehabilitate that land, which could include timber harvests.

CBO expects that enacting H.R. 4200 would increase direct spending by \$5 million in 2007, but would reduce it by \$21 million over the 2007–2011 period and by \$23 million over the 2007–2016 period. Enacting the bill would not affect revenues.

H.R. 4200 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Federal assistance authorized by this bill would benefit state, local, and tribal governments.

Estimated cost to the Federal Government: For this estimate, CBO assumes that H.R. 4200 will be enacted near the start of fiscal year 2007. The estimated budgetary impact of H.R. 4200 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment) and 800 (general government).

	By fiscal year, in millions of dollars—									
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
CHANGES IN DIRECT SPENDING										
Research Protocols and Pre-Approved Management Practices:										
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	5	-1	-2	-2	0	0	0	0	0	0
Receipts from Timber Salvage Sales:										
Estimated Budget Authority	0	-4	-9	-15	-15	-15	-16	-16	-16	-16

	By fiscal year, in millions of dollars—									
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Estimated Outlays	0	-4	-9	-15	-15	-15	-16	-16	-16	-16
Spending of Receipts from Timber Salvage Sales:										
Estimated Budget Authority	0	3	7	11	11	11	12	12	12	12
Estimated Outlays	0	0	2	5	8	10	11	12	12	12
Payments to States:										
Estimated Budget Authority	0	1	2	4	4	4	4	4	4	4
Estimated Outlays	0	0	1	2	4	4	4	4	4	4
Total:										
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	5	-5	-8	-10	-3	-1	-1	0	0	0

Note: *—less than \$500,000.

Basis of estimate: H.R. 4200 would establish new procedures to expedite projects to stabilize and rehabilitate federal land following catastrophic events such as fires, floods, explosions, and other disasters that cause significant damage. Such projects might include removing damaged, diseased, or insect-infested forest vegetation to improve the health of such land. Under the bill, the Secretaries of Agriculture and the Interior would have discretion over when to use those expedited procedures to accelerate the implementation of certain projects which, in some cases, could include the sale of salvageable timber that has been damaged by qualifying catastrophic events.

CBO estimates that enacting H.R. 4200 would increase direct spending by \$5 million in 2007, but would reduce it by \$21 million over the 2007–2011 period and by \$23 million over the 2007–2016 period. The 2007 cost includes developing research protocols and lists of pre-approved management practices that would form the basis for using new expediting procedures specified in the bill. Over the 2008–2016 period, CBO estimates that those expedited procedures would result in a net increase in offsetting receipts (a credit against direct spending) from the sale of salvageable timber and that those increased receipts would be partially offset by increased direct spending for related activities. We also expect that increasing receipts from such sales would increase direct spending for payments to states in which those receipts are generated.

Research protocols and pre-approved management practices

The bill would direct the two Secretaries to develop research protocols to determine the effectiveness of land management practices following catastrophic events. To complete that task, the Secretaries could enter into cooperative agreements with land-grant colleges and universities. The bill also would direct the Secretaries to prepare lists of pre-approved management practices that could be implemented immediately after a catastrophic event.

Based on information from the Forest Service and the Department of the Interior (DOI), CBO estimates that developing the required protocols and lists would cost \$5 million in 2007. Although H.R. 4200 would not provide new funding for those activities, the legislative would allow the Secretaries to use existing balances from a variety of permanently appropriated funds to complete the proposed tasks. Under current law, we expect those funds would be spent over several years starting in 2008. Thus, relative to current law, we expect that enacting H.R. 4200 would increase direct

spending by \$5 million in 2007, but that increase would be fully offset by forgone spending over the 2008–2010 period.

Receipts from timber salvage sales

CBO estimates that allowing the Secretaries to use expedited procedures to implement land management practices following qualified catastrophic events would increase offsetting receipts from the sale of salvageable timber. CBO expects the proposed procedures would allow the agencies to hold such sales at least several months and possibly years sooner than under current law. According to the Forest Service and DOI, holding those sales before the damaged timber begins to substantially deteriorate would increase the value and volume of salvageable timber, thereby increasing the amount that timber harvesters would be willing to pay for it.

Under current law, CBO estimates that receipts from salvage sales following catastrophic events average between \$35 million and \$40 million annually. Based on information from the Forest Service about rates of deterioration and other key factors, CBO estimates that accelerating salvage sales under H.R. 4200 would increase proceeds from those sales, on average, by about 40 percent. Assuming the agencies would phase in the use of the new procedures over several years, we estimate that increases in receipts would begin in 2008 and total \$122 million over the 2008–2016 period.

Spending of receipts from timber salvage sales

Under H.R. 4200, increased receipts could be spent to update research protocols required under the bill, prepare and implement projects following catastrophic events, and monitor the effectiveness of such projects. Based on historical spending patterns for such activities, we expect that there would be a lag between when receipts are collected and subsequently spent. We estimate that spending of increased salvage receipts would total \$72 million over the 2008–2016 period.

Increased payments to states

Under current law, states receive payments based on the level of receipts generated from federal timber sales that occur within their boundaries. Starting in fiscal year 2008, states will receive payments equal to 25 percent of receipts generated in the previous year. For this estimate, we assume that receipt-sharing formula would apply to the increased proceeds from the sale of salvageable timber under H.R. 4200.

Because the Forest Service and DOI have authority to spend 100 percent of receipts from timber salvage sales for restoration activities, the source of funding for payments to states is unclear. For this estimate, however, CBO assumes that the two agencies would control spending on restoration activities and use some of the new receipts generated under H.R. 4200 to make those payments, which we estimate would cost \$27 million over the 2009–2016 period.

Intergovernmental and private-sector impact: H.R. 4200 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Federal assistance authorized by this would benefit state, local, and tribal governments.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 10A OF THE COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978

SEC. 10A. ENHANCED COMMUNITY FIRE PROTECTION AND RESPONSE TO CATASTROPHIC EVENTS.

(a) * * *

* * * * *

(c) *RESPONSE TO CATASTROPHIC EVENTS AFFECTING NON-FEDERAL LANDS.—*

(1) *LANDSCAPE ASSESSMENTS.—At the request of an eligible entity, the Secretary may cooperate with the eligible entity in the preparation of a landscape assessment for non-Federal lands affected by a catastrophic event. The Secretary may combine the preparation of a landscape assessment with the preparation of a catastrophic event recovery evaluation under title I of the Forest Emergency Recovery and Research Act regarding Federal land in the vicinity of the damaged non-Federal land.*

(2) *COMMUNITY ASSESSMENTS.—At the request of an eligible entity affected by a catastrophic event, the Secretary may cooperate with the eligible entity in the preparation of a community wildfire protection plan or related plan.*

(3) *DECISION TO PROVIDE ASSESSMENT ASSISTANCE.—In response to the request of an eligible entity for assistance under paragraph (1) or (2), the Secretary shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.*

(4) *TYPES OF ASSISTANCE.—The Secretary concerned may provide technical and financial cost-share assistance to an eligible entity—*

(A) to assist in the preparation of a landscape assessment under paragraph (1) or a community wildfire protection

plan, community assessment, or community action plan under paragraph (2); and

(B) to implement special recovery projects identified in the landscape assessment or community wildfire protection plan, community assessment, or community action plan.

(5) *SPECIAL RECOVERY PROJECTS.—Special recovery projects supported under paragraph (4)(B) may include projects involving—*

(A) revegetation, tree planting, and other management practices the Secretary determines to be appropriate;

(B) developing products from and markets for timber harvested in response to a catastrophic event and remaining forest resources;

(C) training for the local populace for work in connection with catastrophic event recovery;

(D) repair of forest roads, bridges, and trails and water supply areas affected by a catastrophic event; and

(E) such other activities as the Secretary determines to be necessary to undertake the special recovery project.

(6) *ADDITIONAL FUNDING SOURCES.—Amounts appropriated to the Secretary to carry out sections 8 and 10 may be used to provide assistance under this subsection.*

(7) *DEFINITIONS.—In this subsection:*

(A) The term “eligible entity” means a State Forester or equivalent State official, an Indian tribe, or local government. The term may include community-based organizations and other persons working in conjunction with a State Forester or equivalent State official, an Indian tribe, or local government.

(B) The terms “catastrophic event”, “landscape assessment”, and “special recovery project” have the meanings given those terms in section 3 of the Forest Emergency Recovery and Research Act.

(C) The term “community wildfire protection plan” has the meaning given that term in section 101(3) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511(3)).

[(c)] (d) *CONSULTATION.—In carrying out this section, the Secretary shall consult with the Administrator of the United States Fire Administration, the Director of the National Institute of Standards and Technology, and the heads of other Federal agencies, as necessary.*

[(d)] (e) *AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary to carry out this section—*

(1) * * *

* * * * *

ACT OF JUNE 9, 1930

(Commonly known as the Knutson-Vandenberg Act)

CHAP. 416.—AN ACT Authorizing the Secretary of Agriculture to enlarge treeplanting operations on national forests, and for other purposes.

* * * * *

SEC. 3. (a) The Secretary of Agriculture may, when in his or her judgment such action will be in the public interest, require any purchaser of national-forest timber to make deposits of money, in addition to the payments for the timber, to cover the cost to the United States of (1) planting (including the production or purchase of young trees), (2) sowing with tree seeds (including the collection or purchase of such seeds), (3) cutting, destroying, or otherwise removing undesirable trees or other growth, on the national-forest land cut over by the purchaser, in order to improve the future stand of timber, (4) protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including sale area improvement operations maintenance and construction, reforestation and wildlife habitat management, or (5) watershed restoration, wildlife habitat improvement, control of insects, disease and noxious weeds, community protection activities, and the maintenance of forest roads, within the Forest Service region in which the timber sale occurred: *Provided*, That such activities may be performed through the use of contracts, forest product sales, and cooperative agreements. **【Such deposits shall be covered】**

(b) *Amounts deposited under subsection (a) shall be covered into the Treasury and shall constitute a special fund, which is hereby appropriated and made available until expended, to cover the cost to the United States of such tree planting, seed sowing, and forest improvement work, as the Secretary of Agriculture may direct: Provided*, That any portion of any deposit found to be in excess of the cost of doing said work shall, upon the determination that it is so in excess, be transferred to miscellaneous receipts forest reserve fund, as a national-forest receipt of the fiscal year in which such transfer is made: *Provide further*, That the Secretary of Agriculture is authorized, upon application of the Secretary of the Interior, to furnish seedlings and/or young trees for replanting of burned-over areas in any national park. *The Secretary of Agriculture may also use excess amounts to cover the costs of activities of the Secretary under title I of the Forest Emergency Recovery and Research Act.*

(c) Any portion of the balance at the end of a fiscal year in the special fund established pursuant to this section that the Secretary of Agriculture determines to be in excess of the cost of doing work described in subsection (a) (as well as any portion of the balance in the special fund that the Secretary determined, before October 1, 2004, to be excess of the cost of doing work described in subsection (a), but which has not been transferred by that date) shall be transferred to miscellaneous receipts, National Forest Fund, as a National Forest receipt, but only if the Secretary also determines that—

(1) the excess amounts will not be needed for emergency wildfire suppression during the fiscal year in which the transfer would be made; **【and】**

(2) *the excess amounts will not be needed for activities of the Secretary under title I of the Forest Emergency Recovery and Research Act during the fiscal year in which the transfer would be made; and*

【(2)】 (3) the amount to be transferred to miscellaneous receipts, National Forest Fund, exceeds the outstanding balance

of unreimbursed funds transferred from the special fund in prior fiscal years for wildfire suppression.

* * * * *

SECTION 14 OF THE NATIONAL FOREST MANAGEMENT ACT OF 1976

TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

SEC. 14. (a) * * *

* * * * *

(h) The Secretary of Agriculture shall develop utilization standards methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited *and to cover the costs of activities of the Secretary under title I of the Forest Emergency Recovery and Research Act: Provided, That such deposits shall not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of title 16, United States Code: And provided further, That sums found to be in excess of the cost of accomplishing the purposes [for which deposited on any national forest] for which deposits of money are available under this subsection shall be transferred to miscellaneous receipts in the Treasury of the United States.*

* * * * *

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

* * * * *

FOREST ECOSYSTEMS HEALTH AND RECOVERY

(REVOLVING FUND, SPECIAL ACCOUNT)

There is hereby established in the Treasury of the United States a special fund to be derived hereafter from the Federal share of moneys received from the disposal of salvage timber prepared for

sale from the lands under the jurisdiction of the Bureau of Land Management, Department of the Interior. The money in this fund shall be immediately available to the Bureau of Land Management without further appropriation, for the purposes of planning and preparing salvage timber for disposal, the administration of salvage timber sales, and subsequent site preparation and reforestation. *The money in this fund shall likewise be immediately available to cover the costs of activities of the Bureau of Land Management under title I of the Forest Emergency Recovery and Research Act.*

There is hereby appropriated an amount of \$1,000,000, to remain available until expended to establish this fund. Nothing in this provision shall alter the formulas currently in existence by law for the distribution of receipts for the applicable lands and timber resources.

* * * * *

ADDITIONAL VIEWS OF HON. MARK UDALL

This bill focuses on actions to be taken after a “catastrophic event,” defined as any one of various natural disasters or events.

For Colorado, this misses the point—our most pressing issue is the increased likelihood of severe wildfires that endanger human life and property (and municipal water supplies) resulting from a combination of increased fuel stocks (itself the result of various causes, including past fire-suppression policies), drought, and widespread insect infestations.

So, what we need is accelerated action to reduce hazardous fuels in the “red zones” before the communities that adjoin or intermingle with the forest are confronted with severe wildfires—not legislation that aims at speeding salvage or restoration after the damage has been done.

Nonetheless, I had hoped that during its consideration of this legislation the Resources Committee would make sufficient changes so that I could support it. However, that did not occur and that I cannot support it in its current form.

I will not attempt to list all the bill’s serious flaws. But I think it is worth emphasizing that while it is doubtful that the legislation is necessary anywhere it seems clear that there are certain lands to which it should not apply, including (1) National Conservation Areas and National Recreation Areas, (2) lands that have been recommended for wilderness by the President, (3) wilderness study areas, (4) BLM-designated areas of critical environmental concern, (5) lands recommended for wilderness in a Forest Service or BLM land-management plan, (6) the Fossil Ridge Recreation Management Area in Colorado, (7) the Bowen Gulch Protection Area in Colorado, (8) the Piedra, Roubideau, the Tabeguache Areas of Colorado, (9) the James Peak Protection Area in Colorado, and (10) the Arapaho National Recreation Area in Colorado.

Further, I think the bill should include language to make clear that it will not change the requirement of section 103(d) of the Healthy Forests Restoration Act, which requires that at least 50% of the fuel-reduction funds must be used for projects in the wildland-urban interface—the “red zone” lands.

I offered an amendment to make these changes, and also supported amendments offered by other Members. Unfortunately, the committee failed to adopt not only my amendment but also several others that I thought necessary. And because I think the bill should not be enacted without those changes, I voted against it.

MARK UDALL.

DISSENTING VIEWS

We oppose H.R. 4200. This unnecessary legislation eliminates requirements of critical conservation and public participation laws,

allows for road building in inventoried roadless areas, and disregards the body of peer-reviewed science on the harmful effects of salvage logging.

The sponsors' underlying rationale for this legislation is that there is a dire need for environmental exemptions for timber salvage on federal lands following a catastrophic event. To the contrary, we believe that existing authorities are wholly adequate, making H.R. 4200 unnecessary. The Forest Service and Bureau of Land Management have access to a variety of existing authorities for timber salvage including authorities provided for under the Health Forests Restoration Act of 2003, a categorical exclusion for timber salvage of 250 acres or less, and alternative arrangements for emergency actions with the White House Council on Environmental Quality.

H.R. 4200 proponents claim that timber salvage on public lands is taking too long, leaving an abundance of timber salvage going to waste on federal lands, and offers H.R. 4200 as a solution. However, in 2005, 35 percent of the logging volume on our National Forests came from timber salvage, all completed with existing authorities. Secondly, the authorities provided for under the Healthy Forests Restoration Act have allowed the Forest Service to quickly complete one of the largest timber salvage projects in their history, 676 million board feet, for those National Forests on the gulf coast impacted by Hurricane Katrina in 2005. Third, for situations involving threats to life and property, the Forest Service and Bureau of Land Management may request alternative arrangements with the Council on Environmental Quality, and to date not one Forest Service request has been denied.

The unnecessary environmental exemptions provided for in H.R. 4200 come at the expense of critical laws such as the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Clean Water Act, and the National Historic Preservation Act. Should Congress approve H.R. 4200, the result would be a weakening of existing laws meant to protect public participation and provide for environmental protections. The practices in H.R. 4200 are deemed to meet requirements of Section 102 of NEPA, widely regarded as the heart of the NEPA process. H.R. 4200 would also grant the Forest Service an incidental take permit notwithstanding the impacts the salvage logging may cause to listed, threatened, and endangered species and their habitat. Furthermore, H.R. 4200 bypasses requirements for consultation under the National Historic Preservation Act and the Clean Water Act.

Bill proponents argue that it is necessary to allow temporary road building for timber salvage projects in H.R. 4200. However, inventoried roadless areas are not excluded from H.R. 4200. Should Congress approve H.R. 4200, roads will be built in inventoried roadless areas. While bill proponents claim these roads will be temporary and obliterated upon project completion to the extent practicable, the Forest Service currently has an estimated \$10 billion road maintenance backlog that has been growing exponentially.

The categories of lands excluded from the practices of H.R. 4200 are woefully inadequate as they solely include wilderness areas and national monuments, and ignore a variety of other categories of valued public lands. Not only are inventoried roadless areas not ex-

cluded from the damaging salvage logging practices of H.R. 4200, but neither are wilderness study areas, lands recommended for wilderness by the President, national recreation areas, or national conservation areas.

Supporters of H.R. 4200 argue that salvage logging is necessary to recover and restore a forest after a catastrophic event. This argument, however, is not supported by the majority of peer-reviewed science on this issue. A peer-reviewed study by Dan Donato et al published in January 2006 in the journal *Science* concluded that logging in the wake of the 2002 Biscuit Fire in Oregon decreased forest regeneration by 71 percent and increased short-term fire risk. This study adds to a substantial list of peer-reviewed science that concludes that salvage logging is contrary to the goal of improving forest health. 169 scientists from around the country submitted a letter to Congress opposing H. R. 4200, as salvage logging has been found to impede forest regeneration, damage riparian corridors, introduce or spread invasive species, cause erosion, and degrade water quality.

DEMOCRATIC AMENDMENTS

Democratic Members offered the following amendments to H.R. 4200 at the Resources Committee markup on Wednesday, March 29, 2006. All of the amendments offered by those Democratic members expressing concerns with H.R. 4200 were rejected and H.R. 4200 was approved by a vote of 25 to 13, with 13 Democratic members voting no.

1. Nick Rahall Amendment—Strikes bypass of Endangered Species Act.

2. Nick Rahall Amendment—Strikes bypass of National Historic Preservation Act and Clean Water Act.

3. Tom Udall Amendment—Requires that the Secretary certify that a salvage logging project will not increase fire risk or decrease forest regeneration before it can move forward.

4. Tom Udall Amendment—Strikes NEPA waivers.

5. Peter DeFazio Amendments—Limits H.R. 4200 authorities to those federal lands designated for timber production, requires Forest Plans be amended in order for pre-approved management practices to be applicable, and sets standards for snag retention.

6. Jay Inslee Amendments—Excludes inventoried roadless areas from H.R. 4200, and requires that 50 percent of the funding derived from H.R. 4200 be directed towards paying down the Forest Service road maintenance backlog.

7. Mark Udall Amendment—Expands the categories of land exempted from H.R. 4200 to include wilderness study areas, lands recommended for wilderness by the President, national recreation areas, and national conservation areas.

Proponents of H.R. 4200 contend that the environmental exemptions provided for in the legislation are necessary, but do so with an overwhelming amount of agency discretion. The terms “in a form deemed appropriate by the Secretary” and “to the extent practicable” are throughout the legislation. For example, while bill supporters claim this legislation promotes research, the research section of H.R. 4200 is discretionary. Because major changes in agency policy are contained in H.R. 4200, Congress should be more pre-

scriptive. This discretion will do nothing to alleviate the problem of unnecessary political intervention as seen in the aftermath of the 2002 Biscuit Fire in Oregon.

H.R. 4200 does not authorize funds to carry out the practices of H.R. 4200, and instead directs the Forest Service and Bureau of Land Management into an all too familiar situation of using limited existing funds to pay for sweeping changes in agency policy. These existing funds include Knutson-Vandenberg Funds, Forest Service Salvage Sale Funds, and BLM revolving funds derived from disposal of salvage timber. Moreover, salvage sales frequently cost the land management agencies more to administer than they produce in revenues, resulting in significant taxpayer subsidies.

H.R. 4200 is unnecessary legislation with significant negative consequences. We urge its defeat.

NICK RAHALL II.
EDWARD J. MARKEY.
FRANK PALLONE, JR.
JAY INSLEE.
GRACE F. NAPOLITANO.
TOM UDALL.
RAUL M. GRIJALVA.

LETTERS AND CORRESPONDENCE



U.S. House of Representatives
Committee on Resources
 Washington, DC 20515

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STEVEN J. DING
Chief of Staff

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JAMES H. ZONA
Democratic Staff Director

12 April 2006

The Honorable Bob Goodlatte
 Chairman
 Committee on Agriculture
 1301 Longworth HOB
 Washington, D.C. 20515

Dear Mr. Chairman:

I ask your cooperation to help schedule an early consideration by the House of Representatives of H.R. 4200, the Forest Emergency Recovery and Research Act, authored by our colleague, Congressman Greg Walden. The bill was referred primarily to the Committee on Resources and additionally to your committee.

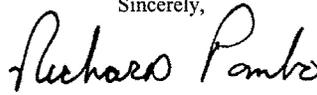
The purpose of H.R. 4200 is to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-federal lands damaged by catastrophic events, and to revitalize Forest Service experimental forests.

I understand that your committee has already considered H.R. 4200 and ordered it favorably reported with an amendment with strong bipartisan support. The Committee on Resources also ordered favorably reported an amended version of the bill on March 29, 2006. I have forwarded a copy of the reported text and a draft bill report to your staff for review. After reviewing the different texts, which differ only slightly, I would propose that the House consider the version ordered reported from the Committee on Agriculture. With this understanding, I ask that you allow the Committee on Agriculture to be discharged from further consideration of the

bill so that we might have it scheduled for Floor consideration in early May. This waiver would not be considered as precedent for any future referrals of similar measures. Moreover, if the bill is conferenced with the Senate, I would obviously support naming Agriculture Committee members to the conference committee.

I look forward to your response and would be pleased to include it and this letter in the report on H.R. 4200, which I hope to file when Congress reconvenes from its Easter District Work period.

Sincerely,

A handwritten signature in black ink that reads "Richard Pombo". The signature is written in a cursive, flowing style.

RICHARD W. POMBO
Chairman

cc: The Honorable Greg Walden
The Honorable John Boehner
The Honorable John V. Sullivan

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U.S. House of Representatives
Committee on Agriculture

Room 1501, Longworth House Office Building
Washington, DC 20515-6001

(202) 225-2171
(202) 225-0917 FAX

19 April 2006

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CHIEF COUNSEL
ROBERT L. LAREW,
MINORITY STAFF DIRECTOR

The Honorable Richard Pombo
Chairman
Committee on Resources
1324 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

I appreciate your cooperation during our work on H.R. 4200, the Forest Emergency Recovery and Research Act. As you know, the Committee on Agriculture received an additional referral of H.R. 4200, while the Committee on Resources received a primary referral.

H.R. 4200 is important to the health of our nation's forested lands. H.R. 4200 will be a valuable tool for forest management because it allows the Secretaries of Agriculture and the Interior to promptly implement responses to catastrophic events on forested lands and to conduct research on this subject.

The Committee on Agriculture recently considered H.R. 4200 and ordered an amended version of the bill favorably reported. I understand that the Committee on Resources also favorably reported an amended version of the bill, but that it is your plan that the House consider the version ordered reported from the Committee on Agriculture.

Because of the importance of this legislation and the need to expedite this bill, I will agree to discharge H.R. 4200 from further consideration by the Committee on Agriculture. I agree to this action with the understanding that the version of HR 4200 which was reported out of the Agriculture Committee will serve as the text considered in the House. Furthermore, in the event a conference with the Senate is requested on this matter, the Committee on Agriculture reserves the right to seek appointment of conferees.

Again, I am grateful for the cooperative spirit with which you have worked regarding this matter and others. In recognition of this cooperation, I ask that you include this letter and preceding correspondence in the report on H.R. 4200.

Sincerely,

A handwritten signature in black ink that reads "Bob Goodlatte". The signature is written in a cursive style with a long horizontal line extending to the right.

Bob Goodlatte
Chairman

Cc: The Honorable Dennis Hastert
The Honorable Collin C. Peterson
The Honorable Nick J. Rahall
The Honorable John V. Sullivan



U.S. House of Representatives
Committee on Resources
 Washington, DC 20515

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JAMES H. ZION
Democratic Staff Director

12 April 2006

The Honorable Don Young
 Chairman
 Committee on Transportation
 And Infrastructure
 2165 Rayburn HOB
 Washington, D.C. 20515

Dear Mr. Chairman:

I ask your cooperation to help schedule an early consideration by the House of Representatives of H.R. 4200, the Forest Emergency Recovery and Research Act, authored by our colleague, Congressman Greg Walden. The bill was referred primarily to the Committee on Resources and additionally to your committee.

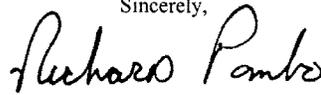
The purpose of H.R. 4200 is to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-federal lands damaged by catastrophic events, and to revitalize Forest Service experimental forests.

The Committee on Resources ordered favorably reported an amended version of the bill on March 29, 2006. I have forwarded a copy of the reported text and a draft bill report to your staff for review. I ask that you allow the Committee on Transportation and Infrastructure to be discharged from further consideration of the bill so that we might have it scheduled for Floor

consideration in early May. This waiver would not be considered as precedent for any future referrals of similar measures. Moreover, if the bill is confereed with the Senate, I would obviously support naming Transportation and Infrastructure Committee members to the conference committee.

I look forward to your response and would be pleased to include it and this letter in the report on H.R. 4200, which I hope to file when Congress reconvenes from its Easter District Work period.

Sincerely,

A handwritten signature in black ink that reads "Richard Pombo". The signature is written in a cursive, flowing style.

RICHARD W. POMBO
Chairman

cc: The Honorable Greg Walden
The Honorable John Boehner
The Honorable John V. Sullivan



U.S. House of Representatives
Committee on Transportation and Infrastructure
 Washington, DC 20515

Don Young
 Chairman

James L. Oberstar
 Ranking Democratic Member

May 4, 2006

Lloyd A. Jones, Chief of Staff
 Elizabeth Megginson, Chief Counsel

David Heymsfeld, Democratic Chief of Staff

Honorable Richard W. Pombo
 Chairman
 Committee on Resources
 1324 Longworth Building
 Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of April 12, 2006 regarding H.R. 4200, the Forest Emergency Recovery and Research Act. As you correctly point out, this legislation was also referred to the Transportation and Infrastructure Committee. I understand your strong interest in moving this important legislation to the House Floor as soon as possible. Accordingly, I will support discharging the Committee on Transportation and Infrastructure from further consideration of the bill. This is contingent on the inclusion of a Floor amendment we have worked out which makes it clear that the bill does not authorize any additional assistance under The Robert T. Stafford Act than otherwise would be eligible prior to the date of enactment of H.R. 4200.

I appreciate your assurances that a decision to be discharged from further consideration of the bill should not be considered as precedent for future referrals of similar measures and that you would support the appointment of conferees from the Committee should a conference with the Senate become necessary. In addition, I appreciate your inclusion of our letters in the Committee Report accompanying the bill.

I congratulate you for your leadership on H.R. 4200 and look forward to working with you and your colleagues as the legislation advances.

Sincerely,


 DON YOUNG
 Chairman

cc: Hon. James L. Oberstar
 Hon. John V. Sullivan



U.S. House of Representatives
Committee on Resources
 Washington, DC 20515

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 STEPHANIE HERSETH, SD

JAMES H. ZOIA
Democratic Staff Director

4 May 2006

The Honorable Don Young
 Chairman
 Committee on Transportation
 and Infrastructure
 2165 Rayburn HOB
 Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 4200, the Forest Emergency Recovery and Research Act. I am pleased that you and Chairman Goodlatte have developed mutually acceptable text which clarifies assistance provided under the Robert T. Stafford Act in the context of forest emergency recovery. Be assured that I will make this agreement part of any base text for H.R. 4200 when it is considered by the House of Representatives.

Thank you again for your cooperation and I look forward to bringing H.R. 4200 to the Floor very soon.

Sincerely,

Richard Pombo
 RICHARD W. POMBO
 Chairman

The Bulletin

bendbulletin.com

Bill would speed up forest recovery

Wednesday, November 02, 2005

A Northwest political odd couple, Washington Democrat Brian Baird and Oregon Republican Greg Walden, do agree on one thing: Forest restoration after natural disasters leaves much to be desired. So the two congressmen have teamed up to introduce the Forest Emergency Recovery and Research Act, a bill that would bring reason to what now, too often, is an unreasonable process.

As things now stand, planning in the wake of a disaster, whether it be fire or insect epidemic or hurricane, can take so long that dead and downed trees become virtually valueless long before anybody gets a chance to cut them. That means the government often must go in and spend tax dollars to do something that should have been done by private industry in the first place.

FERRA would change that by speeding up the process dramatically. After a disaster involving 1,000 acres or more, a 30-day recovery evaluation would begin. The Forest Service, or other agency in charge, would decide if any restoration activity were needed - and sometimes it's not appropriate. The agency could choose to use expedited procedures laid out in the bill or go with those established in existing law, again, on a strict deadline. Public involvement would remain part of the planning process, and those who opposed whatever plan was developed would retain the right of appeal. As is the case with the Healthy Forests Restoration Act, only those who'd participated in the process could appeal, effectively cutting out the New York City law student armed with a fax machine and a map.

From an environmental standpoint, it's worth noting some of the things FERRA would not do. It would not allow the harvest of green trees. It would not allow harvest in national parks or national monuments, or in wilderness areas. It would not create so-called plantation forests, instead requiring that any reforestation plan aim at creating as natural a landscape as possible, with multiple and native species. And, it would not waive a single environmental law now in place.

FERRA would do some positive things. Recovery plans would have to be based on a forest's existing plan, so that if clearcutting, for example, were barred in the forest's plan, it would not be allowed as part of disaster recovery. Any roads built during recovery would have to be obliterated as soon as they were no longer needed. The bill would require research in areas where there's little scientific evidence about what works best. And it would allow the government to assist adjacent tribes and private landowners, if asked.

The bill, introduced this week, already has drawn an impressively broad range of support from Walden's and Baird's fellows in the House of Representatives, a sign that in Washington, at least, some people understand the problems American forests face. It may not have smooth sailing, and if the reaction Baird has gotten from some of his traditional supporters is any indication, it will not. It's a valuable piece of legislation, however, and it should be approved.

Forest Fire Response: Rep. Walden's bill speeds up process to allow salvage and reforestation after fires

NEWS-REVIEW EDITORIAL
 November 14, 2005

This nation's method of reacting to catastrophic fires in national forests is so painstakingly slow it borders on the ridiculous.

It takes a year just to develop a plan. And, as sure as it is going to rain in Oregon this winter, environmental lawsuits will follow, further delaying any salvage logging and subsequent restoration for at least another year, perhaps more.

Trouble is, time is of the essence after a fire. Once trees die, they begin to dry out, and they continue to lose value, month after month. In many cases, by the time plans to harvest some of the timber are finally approved, there isn't enough value left to make it worthwhile.

As a result, dead but commercially valuable timber is wasted, and there is no money from timber sales to pay for restoration and replanting.

Eastern Oregon Congressman Greg Walden is co-sponsor of a bill that sets a speedy timetable to respond after catastrophic events, requiring months, not years.

Dubbed the "Forest Emergency Recovery and Research Act," the bill has some 100 congressmen signed on as co-sponsors.

Although it quickly drew criticism from anti-logging organizations, it included enough restrictions to counter protests. For example, it would not allow harvest in wilderness areas, national parks or monuments, and it prohibits the construction of permanent roads. It also not only requires replanting after any salvage logging, but requires that native or beneficial plants be planted, and prohibits forest plantations of one species.

Some of the concern on the part of conservation groups is understandable. Areas that have been burned are particularly sensitive to erosion and the damage from logging, and some fire-killed trees should be left to provide refuge and return nutrients to the earth. This bill, however, does not free the U.S. Forest Service and Bureau of Land Management from ensuring that logging does no lasting damage. Post-fire logging must be done carefully and avoid especially sensitive areas.

Yes, forests can repair themselves in time after fires. However, the time it takes for a healthy young forest to be growing again in that spot can be cut by less than half with replanting.

Protestations that all fire-burned areas should be off-limits to logging and subsequent replanting don't stand up. A recent survey of Oregonians showed a strong majority favor allowing timber salvage and replanting after forest fires.

Our national forests can handle a reasonable level of sustainable timber harvest without harm.

This bill, speeding up the process of reasonable levels of harvest followed by replanting after a large fire, is a sensible way to help meet that goal.

Lawmakers should get behind Rep. Walden's bill.



In Our View: Protecting Forests

Friday, November 4, 2005

Columbian editorial writers

There's much to like about the Forest Emergency Recovery and Research Act introduced this week by U.S. Reps. Brian Baird, D-Vancouver, and Greg Walden, R-Ore.

This plan to expedite clean-up and restoration of federal forests after catastrophic events has drawn bipartisan support. On this issue, refreshingly, there is no dichotomy, no good vs. evil showdown. The honorable debate is over which plan is best for federal forests after fires, hurricanes and windstorms. To their credit, both sides want to be good forest stewards; they're just at odds over how to reach that goal.

The bill's bipartisan support transcends Baird and Walden. Others who helped write it include U.S. Reps. Stephanie Herseth, D-S.D., and Wayne Gilchrest, R-Md.

One encouraging aspect of FERRA is the help it offers many different regions of the country. While our attention in the Northwest is focused on post-fire recovery, the focus is different elsewhere. For example, in the Gulf Coast region, 19 billion board feet of lumber were put on the ground by Hurricane Katrina.

Baird and Walden want to expedite salvage logging and restoration of forests after catastrophes. Some environmentalist groups, including the Gifford Pinchot Task Force, oppose the plan, advocating more deliberate recovery plans that allow nature, not government, to orchestrate forest recovery. But the Baird-Walden bill is packed with environmental protections, addressing forests as well as habitat. Those include:

. The bill would allow removing only trees that are down, broken or severely root sprung, and which would be destroyed by decay in

five years.

- . It prohibits creation of permanent roads in forestlands. Also, it prohibits timber harvesting in national wilderness, national monument and national park areas.

- . FERRA summons forth the best available science. The bill requires thorough environmental review, evaluation and mitigation by experts.

- . FERRA mandates compliance with all environmental laws. Peer-reviewed scientific research would be increased.

Opponents of FERRA complain that federal funding of forest recovery efforts has been woefully inadequate; the bill's writers say it would be funded through existing sources. The nod here goes to the environmentalists' concerns. The sparsity of funding for Mount St. Helens National Volcanic Monument and other such areas has become so severe that managers have been forced to consider bringing in concessionaires to generate new revenue. So there's ample reason to worry about funding of FERRA.

Those who reject Baird's and Walden's proposal also complain that they were not fully consulted. "As part of a collaborative group that has been working on the ground for three years, I am very disappointed with Rep. Baird for not working with us on the bill," said John Squires of Packwood. He and others recently crafted the collaborative Smooth Juniper timber sale that drew editorial praise from The Columbian.

But the nod on this concern goes to the FERRA authors. This bill was written after two years of hearings and nationwide input. More than ample research was conducted. And, full public notice and participation in the future is mandated in the bill's language.

The strongest argument for FERRA is that it expedites an important process: forest restoration. As Baird said, the bill "will enable us to utilize dead timber instead of letting it go to waste and to responsibly restore the health and diversity of our forests after a catastrophic event." In other words, rehabilitation of public land would be increased, and that would help prevent many wildfires,

insect infestations and disease outbreaks.

The Forest Emergency Recovery and Research Act, like most legislative initiatives, is not perfect. Baird and Walden concede that logging dead trees can increase erosion. But that's a short-term impact, and the long-term benefits are worth pursuing.

FERRA is based on science and common sense, and thus warrants support by the rest of Congress.

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Journal editorial, 11-16-05: Speed forest restoration

By The Journal Editorial Board

What do you do with dead trees? If a natural event such as a wildfire, ice storm or blow down kills thousands of trees, what do you do with them?

A bill co-sponsored by South Dakota Rep. Stephanie Herseth would allow federal land managers to use expedited procedures for implementing a forest restoration plan. Because the normal environmental review and comment period can take too long to implement a salvage logging project before the wood is of no use, the Forest Emergency Recovery and Research Act (HR 4200) would require land managers to decide on a course of action within 30 days of a natural event that damages areas larger than 1,000 acres. A 90-day environmental review and public comment period would follow, using procedures outlined in the Healthy Forests law enacted by Congress in 2003.

A field hearing on forest issues was held in Hill City on Aug. 31, which included House Subcommittee on Forests and Forest Health chairman Greg Walden, R-Ore., Herseth and U.S. Forest Service Rocky Mountain Region chief Rick Cables. The group toured areas of the Black Hills National Forest scarred by mountain pine beetle infestations.

Aaron Everett of the Black Hills Forest Resource Association credited the Hill City hearing and Rep. Herseth for alterations of the bill that will help the Black Hills. HR 4200 would allow federal officials to establish pre-approved restoration guidelines for a given area and type of vegetation. For instance, in the Black Hills where ponderosa pine tends to deteriorate quickly, forest officials could create restoration plans that could allow for salvage timber projects to be implemented shortly after a wildfire, or to prevent wildfires by clearing away dead or dying trees. Time-consuming environmental reviews and public comments would have been done while the restoration plans are formulated in anticipation of a future natural disaster.

The pre-approved restoration plans must be consistent with existing land management plans. Logging would be limited to the removal of dead, broken or downed trees and need not cover the entire area of damage. Projects would not be allowed in wilderness areas and national parks, and no new permanent roads could be built.

Environmental groups have complained that the bill would allow the Forest Service to ignore existing environmental laws, but Russ Levsen, communications director for Rep. Herseth, said the bill requires the plans to be in compliance with all environmental laws.

At a subcommittee hearing on HR 4200 last week, Herseth said the bill would give the Forest Service additional tools to fight pine beetle infestations, including in the Black Hills. "Today, a categorical exclusion could, at best, be used to treat 250 acres of the affected forest. Under the proposed legislation, the Forest Service would have a number of new tools, and they could move more quickly and treat a larger section of the forest. The rapid spread of the mountain pine beetle, the associated fire risk and our inability to stop them in the current regulatory framework convince me that something needs to change."

We urge the House and Senate to pass the Forest Emergency Recovery and Research Act. It's better to prevent a fire than to have to put one out. After a natural disaster, though, it's better to use a dead tree than to lose it.

The Olympian
November 3, 2005

Harvest plan targeted at down timber

Two Northwest lawmakers will introduce a bill in Congress today calling for the harvest of timber blown down by hurricanes or trees ravaged by forest fires.

The bill is expected to draw protests from the environmental community, but common sense needs to trump environmentalists' suspicion of the forestry industry.

"There are those who will say that you should never harvest trees in a burned area, but I disagree with that," said Rep. Brian Baird, D-Vancouver. Baird, who represents Olympia and southwest Washington in Congress, co-authored the legislation with Rep. Greg Walden, R-Hood River, who is the representative for all of eastern Oregon.

The bill makes sense. The average person would agree that it's a terrible waste to leave all burned trees or trees blown down in a windstorm to rot. When more of those dead trees are harvested for use as lumber or paper, fewer living trees will fall to the sawyer's blade.

The nation has seen several catastrophic events in recent years, from hurricanes along the Gulf Coast to monumental fires in the West.

"That wood is useable if you get to it quickly enough," Baird said. "But the value of the wood declines from the moment that wood starts to decay."

The Forest Service can put the dying timber on the harvest block, but appeals through the National Environmental Protection Act can and do result in full environmental impact statements and years of delay. By the time the U.S. Forest Service has authority to harvest, the timber is worthless.

The Walden/Baird legislation expedites the process for recovery from catastrophic forest loss.

Under their legislation, a quick response team would be sent in by the Forest Service after a catastrophic event. The team members would assess the environmental and economic consequences of harvesting the timber -- everything from a full-blown harvest of every tree to selective harvesting.

Forest Service officials would have 90 days to draft a harvest plan. The public would be invited to comment on the proposed harvest during the entire 90-day period.

Baird said the harvest plan adopted by the Forest Service would have to be in concert with the forest management plan for the federal property. In other words, if the forest management plan said no timber could be harvested within 200 feet of a stream, the harvest plan would have to exclude all dead trees in that 200-foot buffer.

"I want to be explicit," Baird said. "This legislation is not to be used to harvest green trees."

The legislation would apply to Forest Service and Bureau of Land Management property only. It explicitly excludes wilderness areas and national parks.

Environmentalists will say that the bill will be used to build more roads into federal lands.

Baird counters, saying a provision in the bill dictates that upon the completion of the harvest, all roads will be decommissioned.

As for reforestation, the legislation calls for a diversity of tree species to be replanted.

Baird is right when he says, "It drives people crazy to see a burned forest with all that wood going to waste." The key is to draft a bill that will allow the reasonable harvest of decaying timber in a way that is environmentally sound. Baird and Walden are off to a good start.

