

SECTION-BY-SECTION ANALYSIS OF RULES COMMITTEE PRINT 114-21
H.R. 2647, RESILIENT FEDERAL FORESTS ACT OF 2015

Section 1 is the short title of the bill.

Section 2 provides definitions for the purposes of the Act.

Title 1 – Expedited Environmental Analysis and Availability of Categorical Exclusions to Expedite Forest Management Activities

Sec. 101- Analysis of Only Two Alternatives (Action versus No Action) In Proposed Collaborative Forest Management Activities

Section 101 requires that in the case of a forest management project proposed by a collaborative group, resource advisory committee or within a community wildfire protection plan, the Forest Service must only analyze two alternatives: (1) An “action alternative”, which is the project proposed by a collaborative process, Resource Advisory Committee (RAC) or Community Wildfire Protection Plan (CWPP); and (2) A “no-action” alternative. The “no action alternative” must consider potential future impacts (such as insect and disease threat, catastrophic wildfire and its impacts on municipal watersheds, wildlife habitat, and other socio-economic factors).

Subsection (c) expounds on the elements of a no-action alternative.

Sec. 102- Categorical Exclusion to Expedite Certain Critical Response Actions

Subsection (a) authorizes a categorical exclusion for insect and disease, to reduce hazardous fuels loads, protect municipal watersheds, maintain or enhance critical habitat, to increase water yield, or any combination of the purposes listed above.

Subsection (b) establishes an acre cap of 5,000 acres. However, if the project is developed through a collaborative process, RAC, or CWPP then the CE is limited to harvest units totaling 15,000 acres.

Sec. 103- Categorical Exclusion to Expedite Certain Salvage Operations in Response to Catastrophic Events

Subsection (a) authorizes a categorical exclusion for areas burned by wildfire to salvage dead trees and reforest to prevent re-burn, provide for the utilization of burned trees, or to provide a funding source for reforestation.

Subsection (b) establishes an acre cap of 5,000 acres and one third of the area impacted by the catastrophic event. However, if the project is developed through a collaborative process, RAC, or CWPP then the CE is limited to 15,000 acres.

Subsection (c) limits road building to temporary roads only and requires the decommissioning of the road upon completion of the project. The subsection further requires projects to protect streams and stream buffers as provided in the forest plan. Finally, the subsection requires the development of a reforestation plan (per existing law).

Sec. 104- Categorical Exclusion to Meet Forest Plan Goals for Early Successional Forests

Subsection (a) authorizes a categorical exclusion to improve, enhance, or create early successional forests.

Subsection (b) directs the Secretary to design forest management activities to meet early successional forest goals.

Subsection (c) Limits total acreage of harvest units covered in the CE to 5,000 acres forests for wildlife habitat improvement.

Sec. 105- Clarification of Existing Categorical Exclusion Authority Related to Insect & Disease Infestation

Section 105 amends the Healthy Forests Restoration Act to include Fire Regime IV (Lodgepole pine) in the Insect & Disease Categorical Exclusion included in the Farm Bill. This was inadvertently left out of the original legislation even though Fire Regime I, II and III were included.

Sec. 106 – Categorical Exclusion to Improve, Restore, and Reduce the Risk of Wildfire

Subsection (a) authorizes a categorical exclusion for certain activities when the purpose of those activities is to improve, restore, or reduce the risk of wildfire on Forest System or public lands.

Subsection (b) establishes an acre cap of 5,000 acres.

Subsection (c) enumerates the activities for which a categorical exclusion is authorized.

Subsection (d) provides definitions for the purposes of the section.

Sec. 107 – Compliance with Forest Plan

Forest management activities covered by a categorical exclusion must be consistent with guidance in the Forest Plan.

Title II – Salvage and Reforestation in Response to Catastrophic Events

Sec. 201- Expedited Salvage Operations and Reforestation Activities Following of National Large-Scale Catastrophic Events

Subsection (a) requires a three month environmental assessment for reforestation activities.

Subsection (b) requires at least 75% of the burned area be reforested within five years.

Subsection (c) makes available monies in the Knutson-Vanderberg Fund.

Sec. 202 – Compliance with Forest Plan

Section 202 requires all projects to comply with forest plans.

Sec. 203 - Prohibition of Restraining Orders, Preliminary Injunctions, and Injunctions Pending Appeal

Section 203 prohibits preliminary injunctions on temporary restraining orders.

Sec. 204 – Exclusion of Certain Lands

Section 204 prohibits the use of the authority in Wilderness, Roadless, (unless the action is consistent with the forest plan) and any other areas where timber harvest is prohibited by statute.

Title III – Collaborative Project Litigation Requirement

Sec. 301- Definitions

Section 301 is the definitions section for the purposes of the Title.

Sec. 302- Bond Requirement as Part of Legal Challenge of Certain Forest Management Activities

Subsection (a) requires a bond for would-be litigants if they are challenging projects developed through a collaborative process, RAC, or CWPP.

Subsection (b) allows the Forest Service to recover the costs, expenses and attorney's fees if the Secretary prevails. The maximum amount recovered cannot exceed the amount of the bond or other security posted.

Subsection (c) allows the return of the bond to the plaintiff if it prevails on all the actions brought.

Subsection (d) establishes that, in the case of a settlement, the Forest Service and the plaintiff will share the costs.

Subsection (e) does not allow for Equal Access to Justice Act payments to plaintiffs if the Forest Service prevails in the court case before the court incurred.

Title IV – Secure Rural Schools & Community Self-Determination Act Amendments

Sec. 401- Use of Reserved Funds for Title II Projects on Federal Land and Certain Non-Federal Land

Subsection (a) amends section 204(e) of the Secure Rural Schools and Community Self-Determination Act of 2000 to eliminate the ‘sorting yard’ requirement.

Subsection (b) amends section 204 of the Secure Rural Schools and Community Self-Determination Act of 2000 to require 50% of Title II funds be spent on projects which include sale of forest products and meet land management objectives.

Sec. 402- Resource Advisory Committees

Subsection (a) amends section 205(a)(4) of the Secure Rural Schools and Community Self-Determination Act of 2000 to extend Title II Resource Advisory Committee (RAC) functions, membership through FY 2020, and

Subsection (b) requires new members to be appointed from within RAC geographic area or charters and allows RAC’s to function with reduced membership. RAC’s are required to have balanced representation from environmental, industry and government interests.

Subsection (c) is a conforming amendment.

Subsection (d) adds a requirement for members of the RAC to reside in the county or adjacent county where the RAC has jurisdiction.

Sec. 403- Program for Title II Self-Sustaining Resource Advisory Committee Projects

Subsection (a) amends Title II of the Secure Rural Schools and Community Self-Determination Act of 2000 by authorizing the Chief of the Forest Service to choose ten RAC’s that may retain revenue from projects to fund future projects that accomplish forest management objectives.

Sec. 404- Use of Reserved Funds for Title III County Projects

Section 404 amends section 302(A) of the Secure Rural Schools and Community Self-Determination Act of 2000 to allow search and rescue funding to also be spent on patrols, training and equipment purchases.

Title V – Stewardship End Result Contracting

Sec. 501 Cancellation Ceiling

Subsection (a) amends section 604 of the Healthy Forests Restoration Act of 2003 -- the Stewardship Contracting Authority -- so the Forest Service is no longer required to set aside money in the event a stewardship contract is cancelled.

Sec. 502 Excess Offset Value

Section 502 amends section 604(g)(2) of the Healthy Forests Restoration Act of 2003 to dictate the use of excess funds in stances in which the value of forest products exceeds the value of the resource improvement treatments to satisfy any outstanding liabilities or other authorized stewardship projects.

Sec. 503- Payment of Portion of Stewardship Project Revenues to County in which Stewardship Project Occurs

Section 503 amends section 604(e) of the Healthy Forests Restoration Act of 2003. The Forest Service is currently required to cover potential losses in capital expenditures by a contractor in rare cases (such as if there is a significantly extended government shutdown and the contractor cannot operate as a result). This would allow the Forest Service to use funds that were deposited in these accounts for additional project work.

Sec. 504- Submission of Existing Annual Report

Section 504 amends section 604 of the Healthy Forests Restoration Act of 2003 by amending a report required under stewardship contracting authorities.

Title VI – Additional Funding Sources for Forest Management Activities

Sec. 601- Definitions

Section 601 is the definitions section for the purposes of the Title.

Sec. 602- Availability of Stewardship Project Revenues and Collaborative Forest Landscape Restoration Fund to Cover Forest Management Activity Planning Costs

Subsection (a) amends section 604 of the Healthy Forests Restoration Act of 2003 to allows the Forest Service to use up to 25% of Stewardship Contracting funds for planning projects. Currently the Forest Service prohibits the use of funds for planning.

Subsection (b) is a conforming amendment in the Omnibus Public Land Management Act of 2009.

Sec. 603- State-Supported Planning of Forest Management Activities

Subsection (a) establishes the “State-Supported Forest Management Fund,” which allows for state or other entities to contribute funds for forest management activities.

Subsection (b) allows the Fund to consist of amounts that are contributed by an eligible entity, appropriated to the Fund, or generated by forest management activities.

Subsection (c) allows an eligible entity to specify and limit the types of forest management activities for which the contribution may be expended.

Subsection (g) terminates the fund on September 30, 2025. Any unobligated contributions remaining in the fund at termination will be returned to the eligible entity that made the contribution.

Title VII Tribal Forestry Participation and Protection

Sec. 701- Protection of Forest Assets Through Use of Stewardship End Result Contracting and Other Authorities

Subsection (a) amends section 2(b) of the Tribal Forest Protection Act of 2004. Federal Land management agencies would have 120 days to respond to tribal request for forest management on agency lands and two years to complete the analysis.

Subsection (b) includes conforming amendments.

Sec. 702 – Management of Indian Forest Land Authorized to Include Related National Forest System Lands

Section 702 amends section 305 of the National Indian Forest Resources Management Act to give authority to Indian tribes to request to conduct forest management activities on federal lands where they have a tribal interest. They would have the authority to conduct those activities with authorities available on Indian lands.

Title VIII – Miscellaneous Forest Management Provisions

Sec. 801- Balancing Short and Long Term Effects of Forest Management Activities in Considering Injunctive Relief

Section 801 requires any court hearing a case regarding Forest Service action must weigh the benefits of taking short-term action versus the potential long-term harm of inaction.

Sec. 802- Conditions on Road Decommissioning

Subsection (a) requires that if the Forest Service is considering decommissioning a road in a fire-prone area, the Forest Service must consult with the local government and consider alternatives before taking action.

Subsection (b) further requires that the regional forester must sign off on any road closure in a high fire prone area.

Sec. 803- Prohibition on Application of Eastside Screens Requirements on National Forest Lands

The Northwest Forest plan interim management direction required “eastside screens” meaning no trees over 21” could be cut east of the Cascades in Oregon and Washington states. Grand Fir, a tree species with no ecological value, often grows in excess of 21” in diameter and serves as a ladder fuels for catastrophic wildfire. This provision removes this restriction on Forest Service management and will help to reduce catastrophic wildfire.

Sec. 804- Use of Site-Specific Land and Resource Management Plan Amendments for Certain Projects and Activities

Section 804 allows the Forest Service to amend forest plans in certain cases. Public involvement and input is still required.

Sec. 805-Knutson-Vandenberg Act Modifications

Subsection (a) amends section 3(a) of the Act of June 9, 1930 to require the Forest Service to use Knutson-Vandenberg authorities (retained receipts) for certain purchases. The section further allows the use of KV dollars on any national forest within the Forest Service Region. It does not allow the Secretary to charge Knutson-Vanderberg with overhead costs for forest management projects.

Sec. 806- Exclusion of Certain National Forest System Land

Section 806 prohibits the use of the authority in Wilderness, Roadless (unless the action is consistent with the forest plan) and any other areas where timber harvest is prohibited by statute.

Title IX – Major Disaster for Wildfire on Federal Land

Section 901. Wildfire on Federal Lands

This section defines a major disaster for wildfire on federal lands.

Section 902. Declaration of a Major Disaster for Wildfire on Federal Lands

This section establishes the procedure for requesting a declaration of a major disaster for wildfire on federal lands and provides for assistance.

Section 903. Prohibition on Transfers

This section prohibits the transfer of funds between wildfire suppression accounts and other accounts not used to cover the cost of wildfire suppression operations.