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HEALTHY FORESTS RESTORATION ACT OF 2003

JULY 31 (legislative day, JULY 21), 2003.—Ordered to be printed

Mr. COCHRAN, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1904]

The Committee on Agriculture, Nutrition, and Forestry, reports H.R. 1904 as amended to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes, having considered the same, recommends that the bill do pass.

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I. Introduction and Summary

H.R. 1904, the Healthy Forests Restoration Act of 2003, as reported by the Senate Agriculture Committee, empowers the Secretaries of Agriculture and the Interior to expedite projects that are designed to reduce hazardous fuels buildups and restore healthy forest conditions on federal forest lands. Such projects will help to protect communities and watersheds from catastrophic wildfire. The legislation also contains a number of judicial review provisions designed to expedite legal proceedings governing federal agency efforts to deal with the forest crisis.

The legislation also promotes a variety of other efforts designed to safeguard watersheds and address threats to forest and range land health, such as wildfire and insect infestation. Such provisions include those that: (1) promote the utilization of biomass that is removed as a by-product of forest restoration activities, including research, technology transfer, and rural economic development; (2) provide forestry assistance to state, private and tribal forest landowners to improve and restore healthy watershed conditions; (3) facilitate research assessments on large-scale treatments to reduce insect infestations and improve forest health; (4) provide for entering into voluntary agreements with private landowners for the management of their forests to encourage the recovery of threatened and endangered species; (5) establish a Public Land Corps to provide youth employment and skill development in the implementation of forest restoration projects; (6) establish a program to provide scientific technology transfer and grants to assist rural, resource-dependent communities attract investment in small enterprises that diversify their economies and utilize the by-products of forest restoration activities; and (7) improve information about, and assessment of, emerging forest health problems, address invasive plant pests, and promote research on the management of upland hardwood forests in the southeastern U.S.

II. Purpose, Need and Background

PURPOSE

The purposes of H.R. 1904, the Healthy Forests Restoration Act of 2003, are to: (1) empower the Secretaries of Agriculture and the Interior to expedite projects designed to reduce hazardous fuels buildups and restore healthy forest conditions on federal forest lands so as to protect communities and watersheds from catastrophic wildfire; and (2) promote other efforts that safeguard watersheds and address threats to forest and range land health, such as wildfire and insect infestation. The judicial review provisions of the legislation are designed to expedite legal proceedings governing federal agency efforts to deal with the forest crisis.

Other provisions of the legislation are designed to: (1) promote the utilization of biomass that is removed as a by-product of forest restoration activities, including research, technology transfer, and rural economic development; (2) provide forestry assistance to state, private and tribal forest landowners to improve and restore healthy watershed conditions; (3) facilitate research assessments on large-scale treatments to reduce insect infestations and improve forest health; (4) provide for entering into voluntary agreements

with private landowners for the management of their forests to encourage the recovery of threatened and endangered species; (5) establish a Public Land Corps to provide youth employment and skill development in the implementation of forest restoration projects; (6) establish a program to provide scientific technology transfer and grants to assist rural, resource-dependent communities attract investment in small enterprises that diversify their economies and utilize the by-products of forest restoration activities; and (7) improve information about, and assessment of, emerging forest health problems, address invasive plant pests, and promote research on the management of upland hardwood forests in the southeastern U.S.

BACKGROUND

Federal land managers estimate that over 100 million acres of Federal forest lands are at unnaturally high risk of catastrophic wildfires and large-scale insect and disease outbreaks because of unhealthy forest conditions. The wildfire seasons of 2000 and 2002 were among the most destructive in the last half-century. In 2002 alone, more than 7.2 million acres burned—more than twice the 10-year average. These fires resulted in the deaths of 23 firefighters, drove tens of thousands of people from their homes, and destroyed 2000 buildings. Over the last decade, fire-related deaths have been increasing and on average are now 17 per year. In a 1995 survey of wildland fire fighters, the number one action these fire fighters recommended was mechanical removal of fuels to increase their margins of safety. In 2002, Oregon, Arizona, and Colorado experienced the largest wildfires in their respective histories, causing damage to air quality, water quality, and wildlife habitat in these states and beyond.

The 2003 fire season continues the trend of the last several years. By the end of July, hundreds of homes and other structures have been destroyed and 12 firefighters' lives have been lost.

While the immediate cause of the wildfire situation is the long-term drought conditions that exist in the Western U.S., the underlying cause has been the buildup of forest fuels that has taken place over the last century. In many forest areas where, in the past, there were 100 trees per acre or fewer in open park-like stands, there are now dense stands of a thousand trees or more. All those trees compete for limited amounts of water and nutrients and are at increased risk to insects, disease and unnaturally intense wildfires.

In spite of the billions of dollars that have been spent fighting wildfires over the last several years, federal agencies have been frustrated in their efforts to reduce the intensity and destructiveness of wildfires by thinning overcrowded stands and using controlled burning to reduce forest fuels. The Forest Service believes that its efforts to carry out time sensitive projects have been bogged down by legally mandated administrative process requirements that have delayed critical fuels reduction projects. In its June 2002 report, PROCESS PREDICAMENT: How Statutory, Regulatory and Administrative Factors Affect National Forest Management, the Forest Service documents how requirements for detailed documentation, administrative appeals of proposed forest treatment projects, lawsuits and injunctions have all delayed need-

ed projects and made it difficult for federal land management agencies to carry out necessary forest restoration and fuels treatments.

It is not only communities and homes that are at risk—key watersheds and critical wildlife habitats are being damaged and destroyed. In 1996, the 12,000-acre Buffalo Creek Fire in Colorado damaged a portion of the watershed serving the city of Denver. Although only a small fraction of the watershed was burned, tens of thousands of tons of sediment washed into Strontia Springs Reservoir, damaging Denver's main water supply system and costing the city millions of dollars to repair. To reduce the risk of future damaging wildfires in this sensitive Denver watershed, the Forest Service planned a number of fuels treatment and forest restoration projects. A business process analysis of one of these projects, the Upper South Platt Watershed Restoration and Protection Project, identified that over 800 administrative activities are involved in preparing a legally defensible fuels treatment project that includes sale of commercial timber. Implementation of this project was later delayed due to an administrative appeal. Unfortunately, before this project could be implemented, in 2002 the 137,000-acre Hayman Fire, the largest and the most destructive wildfire in Colorado history, burned one-third of the project area.

The National Academy of Public Administration, in its 2002 report, WILDFIRE SUPPRESSION: Strategies for Containing Costs, (p. 34) said:

> Delays in creating or amending [Land Management Plans (LMPs) and Fire Management Plans (FMPs)] result from the need to use long, detailed and costly planning processes that comply with diverse environmental and other laws and regulations, allow for long public review periods, and are subject to administrative and judicial appeals.
>
> Due to these demanding procedures for planning and environmental clearances, it may take several years to prepare the required analyses for complex or controversial fuels treatment projects, particularly those involving projects that rely on commercial timber sale authority. Federal agencies may be faced with having projects tied up with appeals and litigation for a prolonged period. Consequently, federal land units often back away from critical plans and projects, rather than risk scarce time and money in an effort that may stretch out so long, or may never be approved.

Where damaging wildfires have occurred and moved into areas where thinning and fuel treatments have taken place, the results have often shown how dramatically forest treatments can change the behavior of destructive wildfires. In an increasing number of cases, when wildfires have entered treated stands, destructive and intense crown fires have been stopped dead in their tracks or the fire dropped from the tree crowns to become a much less destructive and more easily controlled ground fire.

Many communities and outside groups are calling for action to expedite fuels treatment on federal lands. The Western Governors Association has been a major catalyst for action, as have the leaders of communities at risk. In spite of such calls for action,

wildfires are currently damaging far more land annually than federal agencies are treating.

While America's forest health crisis is often cast as a phenomenon unique to western forest lands—based largely on the high profile of western wildfires—it is not limited to the West. Major pest and pathogen outbreaks are also degrading forest ecosystems in other parts of the country. In Arkansas and Missouri, for example, a recent unprecedented outbreak of Red oak borer has infected 800,000 acres of Federal and non-Federal forest lands. This is not an isolated event. This legislation would address forest health issues in the eastern U.S., as well.

NEED FOR LEGISLATIVE ACTION

The primary purposes of the Healthy Forest Restoration Act of 2003 are to provide federal land managers with the ability to streamline government procedures and move rapidly to use scientifically supported fuels treatment and restoration methods on federal forests, while also establishing new conservation programs to improve water quality and restore healthy conditions on private forest lands. Time and resources are directed toward improving a forest area's health by making public and community participation more focused on treatment of insect-infested forests and reduction of unnatural, highly combustible overgrowth.

When federal agencies propose hazardous fuels reductions projects designed to thin forests or carry out prescribed burning activities, such projects can be delayed for extended periods by requirements for detailed documentation, administrative appeals and lawsuits. The legislation contains several provisions dealing with judicial review of federal hazardous fuels treatment projects. These include: (1) the legislation would require a lawsuit challenging a fuels reduction project to be filed within 15 days of the final notice of decision on the project (only the six year statute of limitations currently applies to the filing of such a suit); (2) it would require preliminary injunctions granted by a federal court against a fuels reduction project be reevaluated every 45 days; (3) it admonishes, in non-binding terms, federal courts considering a legal challenge to a hazardous fuels reduction project to issue a decision on the merits within 100 days; (4) it directs federal courts, when considering a challenge to hazardous fuels reduction projects, to balance the long-term environmental consequences associated with management inaction (i.e. doing nothing when the threat of wildfire or insect infestation looms), against the effects of the project in the short term, and finally; (5) it directs the courts to give "weight" to the Forest Service's and BLM's scientific determinations when balancing the "harms" of implementing a project with the "harms" of doing nothing.

The legislation provides land managers with additional and important tools to maintain and preserve forest and rangeland health. Through this legislation, land managers will now have an improved ability to sustain healthy conditions in America's forests while protecting both life and property.

In addition to the provisions designed to expedite hazardous fuels projects, other provisions include those that:

• Establish biomass grant programs to promote research and development for the energy and other commercial use of vegetative overgrowth and brush discarded during treatment;
• Provide financial and technical support to Indian Tribes and private forest landowners for watershed quality protection;
• Authorize funding for systematic information-gathering on destructive insects causing large-scale forest damage;
• Support a private forestland conservation initiative to restore declining forests critical to the recovery of threatened, endangered and other sensitive species;
• Establish a Public Land Corps of young people for rehabilitation and enhancement projects in forest communities; and
• Assist forest communities by promoting investment in small forest products businesses and local development.

III. SECTION-BY-SECTION ANAYLSIS

Sec. 1. Short title; table of contents

Gives the Act a short title of "Healthy Forests Restoration Act of 2003." Lists table of contents.

Sec. 2. Purpose

Lists the purposes of this Act, including: to reduce the risks of damage to communities, municipal water supplies and federal lands from catastrophic wildfire; to authorize grant programs to improve the commercial value of forest biomass; to enhance efforts to protect watersheds and address threats to forest and rangeland health; to promote systematic information gathering to address the impacts of insect infestation on forest and rangeland health; to improve the capacity to detect insect and disease infestations at an early stage; and to benefit threatened and endangered species, improve biological diversity and enhance carbon sequestration.

Sec. 3. Definitions

Defines the terms: federal land, Indian tribe.

TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LAND

Sec. 101. Definitions

Defines the terms: authorized hazardous fuels reduction project, condition class 2, condition class 3, day, decision document, federal land, hazardous fuels, hazardous fuels reduction project, implementation plan, interface community, intermix community, municipal water supply system, resource management plan, Secretary, threatened and endangered species habitat.

Paragraph (1) defines the term "authorized hazardous fuels reduction project" to mean those hazardous fuels reduction projects on Federal land described in section 102(a) that are conducted in accordance with the sections 103 and 104. Authorized hazardous fuels reduction projects conducted under section 104 are those for which the Secretary is required under National Environmental Policy Act (NEPA) to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS). Hazardous fuel reduction projects that are categorically excluded from documentation in an EA or EIS are carried out under authority other than this Act and are not subject to the process authorized in section 104.

Paragraph (7) defines the term "hazardous fuels reduction project" to mean the measures and methods described in the definition of "appropriate tools" in the Implementation Plan. The term "Implementation Plan" is defined in paragraph (8) to mean the Implementation Plan for the 10-year Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment (including any subsequent revision to the Plan). Accordingly, the Committee intends the definition of "appropriate tools" in the Plan to refer to the definition as it may be subsequently revised.

Where reference is given in this and other sections of the bill to existing documents and the notation is made "including any subsequent revision" this includes revisions subsequent to enactment of this act.

The Committee intends that the source watersheds referred to in the definition of municipal water supply system include groundwater aquifers that may be adversely affected by unnaturally intense wildfire events. By January 2004, the Committee requests the Secretary of Agriculture to inform the Senate Agriculture Committee as to the federal, state and local efforts to manage and protect municipal water supply systems on National Forest System (NFS) lands. This report should discuss the extent of municipal water supply systems on National Forest System lands (as defined in this legislation or other appropriate definition), their current status and trends and the threats that exist to meeting current and anticipated demands for high quality water from NFS lands.

Sec. 102. Authorized hazardous fuels reduction projects

Allows for authorized hazardous fuels reduction projects on federal lands that: (1) are located in an interface or intermix community, (2) are located in proximity to such communities, (3) are condition class 3 or 2 and located in proximity to a municipal watershed or water supply, (4) are condition class 3 or 2 and have been identified as an area where windthrow, blowdown, ice storm damage, the existence or threat of disease or insect infestation poses a threat to forest or rangeland health, or (5) contain threatened and endangered species.

Requires projects to be planned and conducted in a manner consistent with land and resource management plans or an applicable land use plan. Limits the acreage available for authorized hazardous fuels reduction projects to 20,000,000 acres. Prohibits the Secretary concerned from conducting an authorized hazardous fuels reduction project on the following federal lands: a component of the National Wilderness Preservation System, federal lands where the removal of vegetation is prohibited or restricted by a Congress or a presidential proclamation, or wilderness study areas.

As discussed in the hearing on June 26, 2003, the Committee notes that extensive areas of federal land are currently damaged or threatened by disease or insect infestations. The Committee expects the Secretary of Agriculture to expeditiously classify appropriate federal lands that have been affected by windthrow, blowdown, ice storm damage, the existence of threat of disease, or insect infestation as condition class 3 or condition class 2 federal land.

Sec. 103. Prioritization for communities and watersheds

Gives priority to authorized hazardous fuel reduction projects which provide for protection of communities and watersheds.

Sec. 104. Environmental analysis

Subsection (a) provides that, except as provided in this title, the Secretary shall conduct an authorized hazardous fuel reduction project in accordance with the NEPA and other applicable laws. The Secretary is required to prepare an EA or an EIS for an authorized hazardous fuel reduction project. Subsection (b) relieves the Secretary from the requirement in section 102(2) of NEPA to develop a range of alternatives to a proposed authorized hazardous fuel reduction project in an EA or EIS.

Encourages the public participation requirements set out in the Western Governors Association 10-year wildfire management strategy for use in conducting hazardous fuels reduction projects. Section 105(c)(1) requires the Secretary to provide notice of each hazardous fuel reduction project in accordance with applicable regulations and administrative guidelines. The Committee intends that the requirement for notice and comment in section 105(b)(2) would also satisfy the notice requirement in section 104(c)(1). Section 104(c)(2) requires the Secretary to conduct a meeting during the preparation stage of an authorized hazardous fuel reduction project. This provision provides the Secretary with the flexibility to hold the meeting at any time during the preparation stage of an authorized hazardous fuel reduction project, including holding the meeting during the public comment period.

Requires the Secretary concerned to monitor the implementation of authorized hazardous fuels reduction project.

Sec. 105. Special forest service administrative review process

Directs the Secretary to issue final regulations to establish an administrative review process for proposed hazardous fuel reduction projects within 90 days of enactment of this Act. Section 105 provides the Secretary with broad discretion to establish the appropriate administrative review process. Section 105(b)(1) limits eligibility to participate in the process to persons who have submitted specific and substantive written comments during the notice and comment stage of the project. Section 105(b)(2) requires the Secretary to ensure that, during the preparation stage of an authorized hazardous reduction project, notice and comment is provided in a manner sufficient to meet the eligibility requirement. The Committee recognizes that the process may be a pre-decisional process similar to the Bureau of Land Management protest process.

Sec. 106. Special requirements regarding judicial review of authorized hazardous fuels reduction projects

Establishes a time limit for filing a challenge to an authorized hazardous fuels reduction project to 15 days within notice of the final agency action. Limits the duration of any preliminary injunction granted on an authorized project to 45 days, subject to renewal. Admonishes (in non-binding terms) a court in which an action or an appeal is filed to render a final determination within 100 days of when the complaint or appeal is filed.

Sec. 107. Standard for injunctive relief for agency action to restore fire-adapted forest or rangeland ecosystems

Directs the court, in considering a request for injunctive relief, to consider the public interest in avoiding long-term harm to the ecosystem. Directs the court to give weight to any agency finding that the balance of harm and the public interest in avoiding the short-term effects of the agency action is outweighed by the public interest in avoiding long-term harm to the ecosystem, unless the court finds that the decision by the agency was arbitrary and capricious.

Sec. 108. Effect of title

Clarifies that nothing in this title shall be construed to affect or limit the use of other authorities by the Secretary concerned to plan or conduct a hazardous fuels reduction project on federal lands.

TITLE II—BIOMASS

Sec. 201. Findings

Lists Congressional findings as to the need for forest management activities to be conducted, including the removal of biomass.

Sec. 202. Definitions

Defines the terms: biomass, Indian tribe, person, preferred community, and Secretary.

Sec. 203. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, compost, value-added products, and petroleum-based product substitutes

Establishes a biomass commercial use grant program to extend assistance to any person who owns or operates a facility that uses biomass as a raw material to produce energy or for other commercial purposes. Establishes a value-added grant program to extend assistance to persons to offset the cost of projects to add value to biomass. Authorizes $25 million for each of the fiscal years 2004 through 2008.

Sec. 204. Reporting requirement

Requires the Secretary of Agriculture, in consultation with the Secretary of Interior, to submit a report describing the results of the grant programs by October 1, 2010 to: the House Agriculture Committee; Resources Committee; Senate Agriculture Committee; and the Senate Energy and Natural Resources Committee.

Sec. 205. Improved Biomass Use Research Program

Amends the Biomass Research and Development Act of 2000 to expand some research from its current form to a more applied form by developing new tools for land managers; amends the Biomass Research and Development Act to provide an additional $5 million in each fiscal year to carry out this section.

It is intended that the Forest Service will conduct this research in cooperation with colleges, universities (including forestry schools, land grant colleges, and universities, and 1890 institutions), state agencies and private landowners.

Sec. 206. Rural revitalization through forestry

Amends the Food, Agriculture, Conservation, and Trade Act of 1990 by enabling the Secretary of Agriculture, in consultation with other entities, to (A) accelerate adoption of biomass technologies, (B) create community-based enterprises, and (C) establish small-scale business enterprises to make use of biomass. Also authorizes $5 million for each fiscal year to carry out this section.

The Committee intends that the requirements of this section can be integrated with the requirements of Title VII.

TITLE III—WATERSHED FORESTRY ASSISTANCE

Sec. 301. Findings and purposes

Lists Congressional findings relating to the need for protection of watershed health in forest management practices and describes the purpose of this title.

Sec. 302. Watershed Forestry Assistance Program

Authorizes the Secretary, acting through the Forest Service, to provide technical, financial and related assistance to private forest landowners through State foresters and equivalent state officials. Focuses assistance on expanding state forest stewardship capacities and activities through best management practices to improve watershed health. Includes a technical assistance program to protect water quality and a watershed cost-share program.

Directs the Secretary to make awards under the cost-share program to communities, non-profit groups and non-industrial private forest landowners for watershed forestry projects. Authorizes $15 million for each of the fiscal years 2004 through 2008. The Federal share of the cost-share program provided in this section may not exceed 90 percent of the total cost of the watershed forestry project.

Sec. 303. Tribal watershed forestry assistance

Authorizes the Secretary, acting through the Forest Service, to provide technical, financial and related assistance to Indian tribes. Focuses assistance on expanding tribal stewardship capacities and activities through tribal forestry best management practices to improve watershed health. Includes a technical assistance program to protect water quality and a watershed cost-share program. Authorizes $2.5 million for each of the fiscal years 2004 through 2008. Directs the Secretary to devote at least 75 percent of the funds appropriated in a fiscal year to the cost-share component.

In implementing subsection (c), the Forest Service is encouraged to work directly with the Intertribal Timber Council to determine priority areas and other considerations to assist in allocating funds to tribes.

TITLE IV—INSECT INFESTATIONS

Sec. 401. Findings and purpose

Lists Congressional findings as to insect infestation, resulting damage and need for assessment and treatment and states the purposes of this title.

Sec. 402. Definitions

Defines the terms: Applied silivicultural assessment, 1890 institution, Federal land, and Secretary. The Committee understands that the term "applied silvicultural assessment" means any vegetative or other treatment carried out for information gathering or research purposes under sections 403 or 404.

Sec. 403. Accelerated information gathering regarding forest-damaging insects

Directs the Department of Agriculture, acting through the Forest Service and U.S. Geological Survey, to conduct an accelerated program to plan, conduct, and promote systematic information gathering on certain insect pests that have caused large-scale damage to forest ecosystems. Directs the Secretary to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to future infestations. Directs the Secretary to disseminate the results of such information gathering, treatments and strategies. Directs the Secretary to establish and carry out the program in cooperation with scientists from universities and forestry schools, state agencies and private and industrial landowners.

Sec. 404. Applied silvicultural assessments

Enables the Secretary concerned to conduct applied silvicultural assessments on federal lands that the Secretary determines are at risk. Requires the Secretary to provide notice and public comment on each proposed silvicultural assessment.

The information gathering under Sec. 404(a) may be tied to the implementation of specific research treatments to deal with insect infestations. The Committee understands that it is possible that some of the treatments carried out under this section may combine various stocking reduction levels (done through tree removals) with applications of pheromones (which are insect attractants, not killing insecticides) in an attempt to markedly reduce insect damage.

Creates a categorical exclusion for areas 1,000 acres or less from documentation under NEPA which eliminates the Secretary's responsibility to make any findings as to whether the project has a significant effect on the environment. Areas covered by a categorical exclusion under this section that use similar treatment methods cannot be located adjacent to one another. Caps the total area of land that can be categorically excluded under this section at 250,000 acres. Requires proposed assessments to undergo peer review in their design.

The Committee understands that establishing a research study under Sec. 404(d) to provide answers to research and management questions requires that the study area have various components which may include: (a) the appropriate number of experimental treatments, (b) the appropriate number of replications of each treatment, and (c) conditions needed to carry out the experiment (e.g. stand density, stand structure etc.). These treatments must be randomized. Therefore, the selection of a study area will be dictated by such concerns as finding an area of sufficient size, with conditions needed for studying the effects of insect attacks. In the case of some bark beetle species, this would likely mean finding an area of dense stands with evidence of recent or ongoing bark beetle

activity. These treatments do not necessarily have to be located all in one place.

The Committee encourages the Secretary to carry out the silvicultural assessments called for in this section in cooperation and collaboration with universities and forestry schools.

Sec. 405. Relation to other laws

Clarifies that the authorities provided to the Secretary concerned in this title are supplemental to authorities provided in any other law.

Sec. 406. Authorization of appropriations

Authorizes the appropriation of such sums as may be necessary to carry out this title in fiscal years 2004 through 2008.

TITLE V—HEALTHY FORESTS RESERVE PROGRAM

Sec. 501. Establishment of Healthy Forests Reserve Program

Establishes a Healthy Forests Reserve Program administered by the Secretary of Agriculture in coordination with the Secretary of the Interior and the Secretary of Commerce to restore degraded forest lands and to promote the recovery of endangered species.

In implementing this title, it is intended that the Forest Service, Natural Resources Conservation Service, and appropriate agencies of the Departments of the Interior and Commerce work together to capitalize on their areas of strength and expertise.

Sec. 502. Eligibility and enrollment of lands in program

Directs the Secretary of Agriculture, in consultation with the Secretaries of the Interior and Commerce, to designate forest ecosystems to be eligible for the reserve program. Allows lands to be enrolled pursuant to a 10-year cost-share agreement, a 30-year agreement or a long-term easement with a landowner buyback option.

Sec. 503. Restoration plans

Requires participating landowners to develop a restoration plan with the USDA describing the land use activities to be permitted on enrolled lands.

Sec. 504. Financial assistance

Sets forth the payment structure for 10-year, 30-year and long-term enrollment options as well as the procedure to exercise a landowner choice option in the case of a long-term easement.

Sec. 505. Technical assistance

Directs the Secretary of Agriculture to provide landowners with the technical assistance necessary to comply with the terms of agreements and easements created in this program.

The Forest Service is encouraged to work through State Foresters to provide forestry technical assistance under this section.

Section 505(b) permits the Secretary to utilize technical service providers to deliver technical assistance to landowners. It is not the intent of this subsection to limit the Secretary's authority to also work in cooperation with state forestry or state fish and wildlife

agencies, or equivalent state agencies, to provide technical assistance and to fully reimburse states for that assistance under existing legal authorities.

Sec. 506. Protections and measures

Directs the Secretary of Agriculture to make available safe harbor assurances under section 7 of the Endangered Species Act to participating landowners when such enrollment will result in a net conservation benefit for listed species and provides for cost sharing assistance to landowners to do so.

Sec. 507. Involvement by other agencies and organizations

Enables the Secretary of Agriculture to consult with other individuals and entities regarding the development and implementation of the healthy forest reserve program.

Sec. 508. Authorization of appropriations

Authorizes $15 million for each of the fiscal years 2004 through 2008.

TITLE VI—PUBLIC LAND CORPS

Sec. 601. Purposes

Lists the purposes of this title, including: to carry out rehabilitation, enhancement, and beautification projects; to offer young people the opportunity to gain work experience; to give those young people the opportunity to serve their communities and country; and to expand educational opportunities of participants.

Sec. 602. Definitions

Defines the terms: Alaska native corporation, corps, Hawaiian home lands, Indian lands, Secretaries, service and conservation corps, State.

Sec. 603. Public Land Corps

Establishes the Public Land Corps and names its participants as individuals who are enrolled as members of a service or conservation group. Enables the Secretaries to enter into contracts or agreements with any service or conservation corps, or with State agencies, to perform rehabilitation, enhancement, or beautification projects, as well as to provide technical assistance.

This provides broad authorization for the Secretaries of the Interior and Agriculture to utilize service and a conservation corps established by a state and local government, Indian Tribe, Alaska Native Village or Alaska Native Corporation, or nonprofit organization to complete hazardous fuels rehabilitation and beautification projects on federal lands. These projects may also be carried out on Indian lands, Hawaiian home lands, Alaska native lands, or state lands including the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the U.S. Virgin Islands.

The section provides a preference for projects that provide long-term benefits to reduce hazardous fuels and that will instill corps

members with: a work ethic; a sense of personal responsibility; and a sense of public service. The project is also labor intensive and can be planned and initiated promptly.

The section directs the Secretaries to provide such assistance as they may consider necessary to carry out its requirements, including coordination and technical coordination with outside groups to oversee, monitor, and evaluate the implementation of the projects.

Sec. 604. Nondisplacement

Establishes that the nondisplacement requirements of the National and Community Service Act of 1990 apply to this title.

Sec. 605. Authorization of appropriations

Authorizes $15 million for each of the fiscal years 2004 through 2008.

TITLE VII—RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM

Sec. 701. Purpose

Lists the purpose of this title: to revitalize rural forest-resource dependent communities by promoting investment in private enterprise through incentives by specified government agencies.

It is intended that this title be administered in close coordination with the Rural Revitalization through Forestry program authorized at the Technology Marketing Unit at the Forest Products Laboratory in Section 206 of Title II. Opportunities to develop and share expertise among the Forest Enterprise Centers and the Technology Marketing Unit should be a high priority to ensure that these programs are coordinated and not duplicative of one another.

Sec. 702. Definitions

Defines the terms: 1890 institution, eligible entity, eligible project, forest products, nonprofit organization, program, small forest products business, rural forest resource-dependent community, Secretary.

In Section 702(3)(A), "responsible forest stewardship" includes the establishment of forests in rural grassland-dominated communities attempting to diversify their economies through the development of forests and forest products businesses.

In Section 702(4)(G) the intent is to include what are often referred to as "special forest products", "non-timber forest products", and "non-traditional forest products" to allow for the widest range of business opportunities based on a broad range of products derived from forests.

In Section 702(8)(B) the intent is not to limit the program to the areas listed.

Sec. 703. Rural Community Forestry Enterprise Program

Establishes the Rural Community Forestry Enterprise Program through the office of the Secretary, coordinating with other entities. The purposes of this program are to enhance necessary skills and establish organizations to promote forest-related products and activities. Instructs the Secretary to establish one Forest Enterprise Center at each research station of the Forest Service to assist this

program, as well as to provide technical assistance and a grant program.

The Committee understands that Enterprise Centers are a cooperative function of the State and Private Forestry and Research branches of the Forest Service. Housing the facilities at Research laboratories would involve a cooperative effort that includes the active participation of the Research and Development, State and Private Forestry, and National Forest System branches of the agency working together to develop and deliver the most effective and integrated program possible. There is logic to housing the centers at research laboratories in that it enhances the opportunity for timely technology transfer of new research information. But it is not the intent of this section to require that centers be physically located at a forest science laboratory. The center may be located in a nearby federal facility or leased space, as appropriate.

Authorizes $15 million for each of the fiscal years 2004 through 2008.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Forest inventory and management

This section amends the Cooperative Forestry Assistance Act of 1978 to authorize the Secretary of Agriculture to carry out a comprehensive program to inventory, monitor, characterize, assess and identify forest stands on National Forest System and private lands, with an emphasis on hardwood forest types.

This section is intended to complement existing Forest Service inventory and analysis and forest health detection programs not to replace them. The Committee recognizes that the application of remote sensing technologies will vary with the scale of the issue being addressed.

The Committee notes that the Institute of Technology Development at the National Aeronautics and Space Administration's Stennis Space Center, along with the Mississippi State University GeoResources Institute, have the technical capabilities to utilize geospatial and information management technologies (including remote sensing and decision support systems) that would benefit the Secretary's ability to inventory, monitor, characterize, assess, and identify forest stands (and potential forest stands) in the southern and eastern portions of the United States. In carrying out this program in such areas, the Committee urges the Secretary to partner with entities such as these in order to take full advantage of remote sensing technology, emerging geospatial capabilities in research activities, validating techniques using application demonstrations, and integrating results into pilot operational systems.

The language of Sec. 17(a)(2) is not intended to require private land owner consent to collect and analyze data collected by various remote sensing technologies. Any ground checking of such information on privately owned land would, however, require land owner permission.

The Committee finds that developing a comprehensive early warning system for potential catastrophic environmental threats to U.S. forests would significantly increase the likelihood that forest managers could isolate and treat any such outbreak before it gets out of control. Such a system might conceivably help to identify in

its early stages epidemics, like that of the American chestnut blight in the first half of the twentieth century, which could be environmentally and economically devastating to forests in the United States.

Sec. 802. Program for emergency treatment and reduction of nonnative invasive plants

Establishes a program through the Secretary to reduce nonnative invasive plants, posing a threat of wildfire, through hazardous fuels reduction projects by issuing grants to qualifying participants.

The Committee has become increasingly concerned by the proliferation of nonnative invasive trees, shrubs, and vines that are degrading the forests of America. In the South, invasive species, such as kudzu, choke both public and private forest lands and are out-competing native flora. In the West, Salt Cedar, Russian Olive, and other woody plants are over-running stream and river banks, destroying the native ecosystem, and utilizing critical water resources that are needed for human water supplies, as well as water needed for wildlife and fishery. In many instances, these invasive species increase the risk of catastrophic wildfires both within the wildland urban interface, as well as within our public and federal forests, such as the fires that burned within the city limits of Albuquerque, New Mexico during 2003.

This section directs the Secretaries of the Interior and Agriculture to work with state and local government, Indian Tribes, and private landowners to treat or eradicate these invasive species that increase the risk to property, human life, or the ecological stability of an area. It authorizes the Secretaries of Agriculture and the Interior to remove plants within the wildland urban interface, municipal watersheds, and along waterways. It authorizes the Secretaries to fund projects to remove outdated erosion control structures that make eradication work difficult, or impossible, to complete, such as the outdated erosion control devises along the Rio Grande River in the State of New Mexico from the Cochiti Dam on the Rio Grande River to the headwaters of Elephant Butte Dam on the Rio Grande River in New Mexico.

The Committee is concerned by the invasion of Salt Cedar and Russian Olive Trees along the Rio Grande River and expects the Secretaries to give priority to completion of the Middle Rio Grande Bosque Initiative, located along portions of the Rio Grande River from Cochiti Dam to the headwaters of Elephant Butte Dam, in the State of New Mexico under this authority.

Another invasive species of concern to the Committee is the exotic vine, kudzu (*Pueraia montana*), that has taken over and smothered large areas of forestland in the southeastern U.S. There are many other invasive plants of concern, including Cogongrass (*Imprata cylindrica*), Autumn Olive (*Elaeagnus umbellata*), Tallowtree (*Triadica sebifera*), Nepalese Browntop (*Microstegium vimieum*), Japanese Climbing Fern (*Lygodium japonicum*), Tree-of-heaven (*Ailanthus altissima*) and other aggressive non-native invasive plants threatening forests and grasslands, particularly in the eastern United States. These species threaten ecosystem health, public use, and economic value of the lands they infest and contribute to the significant loss of native plant and animal species. Some invasive plants affect the ability to utilize prescribed fire as

a tool for fuels reduction and others can create unnatural fire regimes that increase the risk of catastrophic wildfire.

Priority should be given to preventing, controlling, and mitigating the spread and impacts of these and other priority invasive plants on eligible private, local, State, Tribal and Federal lands. Management activities will employ a full range of integrated pest management technologies including inventories and assessments, chemical control, biological control, cultural control, and mechanical control operations. Follow-up monitoring and re-treatment of infestations should be important components of the programs. Projects will include restoration activities using native plant materials to prevent re-infestation following treatments.

This section authorizes the Secretaries of Agriculture and the Interior to fund and carry out projects to reestablish native species to these ecosystems, after the invasive species have been removed. It is the managers' expectation that such planting will slow the reestablishment of nonnative invasive trees, shrubs, and vines and will help to stabilize these important ecosystems.

It authorizes the Secretaries to provide grants to State and local governments, to Indian Tribes, and to private lands owners who are willing to participate in the reestablishment of native species in these ecosystems.

It authorizes such funding as may be needed to carry out the program and authorizes those funds to remain available to the Secretaries until they are expended.

Sec. 803. USDA National Agroforestry Center

This section clarifies and updates the role and responsibilities of the Semiarid Agroforestry Research Center which was established by the 1990 Farm Bill to encourage the use of agroforestry practices, such as wind breaks, in erosion prone semiarid agricultural regions. Since that time, the Forest Service and its partners have become increasingly aware of the relevance and potential applicability of agroforestry technologies to a variety of farming and forestry situations throughout the U.S. and its territories. All landowner assistance programs administered by the Forest Service and its partners, including the Natural Resources Conservation Service, encourage the integration of trees and forestry practices with cropping and animal husbandry systems. In addition, the Center has recently been demonstrating the use of trees to absorb polluted storm water runoff in rural-urban interface areas in Kansas—a technology that could prove valuable for urban centers everywhere.

The amendments provided in this section will serve to expand the relevance and function of the Center, so that it can better serve all clients and partners, particularly private landowners who are seeking innovative, economically viable solutions to complex and varied land management problems.

Sec. 804. Upland Hardwood Research Center

Instructs the Secretary of Agriculture to establish an Upland Hardwood Research Center no later than 180 days from the date of enactment of this Act and to select the location of the center.

The Center for Upland Hardwood Research would provide a broad research and development program for upland hardwood, mixed hardwood, and related forest mosaics of Arkansas and the

mid-South and would be housed at an appropriate location. The center could also support a virtual connection to other related federal, state, and private research programs.

Authorizes $2.5 million for each of the fiscal years 2004 through 2008.

Sec. 805. Sense of Congress regarding enhanced community fire protection

Reaffirms the sense of Congress the importance of the enhanced community fire protection program under the Cooperative Forestry Assistance Act of 1978.

IV. Legislative History and Votes in the Committee

H.R. 1904 was introduced in the House of Representatives by Congressman Scott McInnis on May 01, 2003. It was referred to the House Agriculture Committee and the Committee on Resources. The bill was ordered to be reported by Voice Vote from the House Agriculture Committee on May 9, 2003. The House Resources Committee was discharged from further consideration of H.R. 1904 on May 9, 2003. This bill was also sequentially referred to the House Committee on the Judiciary which reported the bill on May 16, 2003. On May 20, 2003 the House of Representatives voted 256–170 to pass H.R. 1904. The Senate received H.R. 1904 on May 21, 2003 and referred it to the Committee on Agriculture, Nutrition and Forestry.

The U.S. Senate Committee on Agriculture, Nutrition and Forestry held a hearing on June 26, 2003, to review H.R. 1904. Chairman Thad Cochran called the hearing to order and then passed the gavel to Senator Mike Crapo of Idaho, the Chairman of the Subcommittee on Forestry, Conservation and Rural Revitalization. Senator Larry Craig of Idaho, the Chairman of the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources, was invited to join the members of the Agriculture Committee. There were four panels of witnesses testifying during the hearing.

Panel I consisted of Senators John McCain and Jon Kyl of Arizona. Senator McCain indicated that 25,000 acres of forest and 345 homes and other buildings had been destroyed by forest fires in Arizona and that the extent of damage continued as the fires were only 25 percent contained at the date of the hearing. He pointed out that in Arizona last year, wildfires claimed the lives of 23 firefighters, burned 7.2 million acres, and cost $1.6 billion to fight. Senator McCain expressed support for the bill.

Senator Kyl remarked about the forest fire then raging in Arizona and that while a small amount of thinning had been done around some of the cabins, it was not nearly enough, which was evident in that it did not prevent the fire from totally inundating the community of Summerhaven. He expressed his opinion that protecting all of our forests also included areas deep in the forest where endangered species live. Senator Kyl expressed concern that the Committee should not consider just limiting the legislation to wildland urban interface thinning. His second concern was that environmental impact assessments can take up to six months and $40,000 to $50,000 to complete. He expressed support for H.R. 1904 in that this legislation allows discretion to be given to proposed

agency action which could lessen the time lag and get these projects implemented more quickly, without touching environmental laws.

Senator Craig reminded the Committee of the great fire of 1910 that consumed 3 million acres of land in Idaho and northwestern Montana and that some of those forests in Idaho and Montana are still recovering today. He referred to various forest hazards of the past few years and the appropriated funds required to help recover from them. Senator Craig testified that in some cases they waived the National Environmental Policy Act (NEPA) and allowed landowners to move to immediate recovery. He ended with a statement that accented the importance of moving this legislation forward quickly.

The second panel of witnesses included the Honorable Mark Rey, Under Secretary for Natural Resources and Environment with the United States Department of Agriculture and the Honorable Lynn Scarlett, Assistant Secretary for Policy, Management and Budget at the United States Department of Interior. Secretary Scarlett began by estimating that one hundred and ninety million acres of forests remain in poor condition. She discussed the Administration's current limited tools for dealing with the forests of America. After mentioning what has changed in the past two years, Ms. Scarlett thanked Congress for their recent consolidated appropriations resolution which gave the Bureau of Land Management authority to engage in stewardship contracting, along with the Forest Service. She then introduced Mr. Rey.

Secretary Rey stated that Title I of the bill would improve processes which now significantly contribute to costly delays, and it would allow timely implementation of critical fuels reduction projects. Mr. Rey then summarized titles II through VI of the bill, explaining why the Administration believed each is important.

The third panel of witnesses consisted of Mr. Mike Carroll from the Division of Forestry in the Minnesota Department of Natural Resources; Dr. Fred Stephen, the interim department head at the Department of Entomology at the University of Arkansas; Mr. Tom Nelson, director of Timberlands, Sierra Pacific Industries from Redding, California; Ms. Jackie McAvoy, council member for Post Falls City in Post Falls, Idaho; and Mr. Michael Peterson of the Lands Council from Spokane, Washington.

Mr. Carroll spoke on behalf of the National Association of State Foresters. He indicated his support for H.R. 1904 because it would help protect and improve the sustainability of multiple values in varied ecosystems dominated by trees and that it clearly supports the implementation of the National Fire Plan, addressing the national need for active forest management across mixed ownerships at a landscape level. Mr. Carroll stated that integrated pest management activities should be applied in a quick response to eradicate new, invasive pests. At the conclusion of his testimony, Mr. Carroll indicated that promoting biodiversity, and developing and maintaining outlets for the byproducts of the forests, was essential. He mentioned that base industrial processing, ecotourism, energy and specialty products all need to be considered as a part of the forestry industry complex.

Dr. Frederick Stephen represented the Society of American Foresters and noted that they believe that appropriate science-in-

formed silviculture treatments can be important in increasing forest diversity and health, and therefore also reduce the likelihood and severity or impact of many forest insect outbreaks. He summarized that it is essential that we realize the complexity and uniqueness of insect epidemics as well as their commonality and that to successfully manage such problems will require greater support of research by university and other scientists. Dr. Stephen urged Congress and the Administration to continue to support research into ecologically and economically effective integrated pest management and forest management systems.

Mr. Tom Nelson, testifying on behalf of the American Forest and Paper Association, stated that well-designed forest management strategies must recognize that mechanical treatments with removal of trees and brush should be an integral part of the plan. He stated a need for procedures that allow Federal land managers to expeditiously implement hazardous fuels reduction projects on Federal forests and rangelands in critical areas, including areas that threaten communities and areas at high risk for catastrophic wildfire or insect and disease infestation. Mr. Nelson emphasized that Congress should allow agencies to make a more efficient approach to NEPA documentation and allow for expedited handling of administrative and judicial challenges. He concluded his testimony by asking for the creation of a watershed forestry assistance program which would provide States and landowners with technical and financial support in their efforts to address threats to forest health.

Next, Ms. Jackie McAvoy testified to express support for H.R. 1904. She stressed her concern over the very real possibility that catastrophic fires would blaze across the Nation before any legislation intended to speed the thinning work that must be done to reduce the threat of insect outbreaks and devastating wildfires could be adopted. Ms. McAvoy brought samples of douglas fir bark beetles and western pine beetles along with bark samples. She indicated her concern for the safety to those living by National forests and the effects that fires have on the community.

Mr. Michael Peterson, Director of the Lands Council, a conservation organization based in Spokane, Washington, noted his advocacy of the passage of the National Forest Protection and Restoration Act. Mr. Peterson emphasized that considerable research found that effective wildfire protection must focus on the homes and its immediate surroundings and not on wildlands. He suggested that we should concentrate our fuel-reduction projects in areas which are about a half-mile from or 200 feet around structures in community areas in order to help protect them. Mr. Peterson feels that 85 percent of the National Fire Plan's hazardous fuel budget should go to these areas. He indicated that H.R. 1904 takes the emphasis off of community safety and fails to provide any extra financial assistance to fire protection around communities. Mr. Peterson also testified that, in his opinion, H.R. 1904 would restrict the rights of Americans to take these issues into court and would authorize an unlimited number of projects, up to 1,000 acres, for all lands that are claimed at risk from insect infestations.

The final panel of witnesses started with Dr. Norman Christensen of the Nicholas School of the Environment and Earth Sciences at Duke University; followed by Dr. Hal Salwasser, Dean of the College of Forestry at the Department of Forest Resources

at Oregon State University; next was Dr. Donald Kochan, Visiting Assistant Professor of Law at George Mason University; the last to testify was Professor Patrick Parenteau, Director of the Environmental Law Clinic at Vermont Law School.

Dr. Norman Christensen began his testimony by saying that many, though not all, western forests are in an unhealthy state with respect to flammable fuels and the risk of catastrophic fires and that he supported the intent of H.R. 1904 to protect communities, watersheds and at-risk lands from catastrophic fires, but that the bill should be improved in five ways: the legislation could and should be more specific about which forests have been altered by fire suppression and past land use; the bill provides virtually no guidelines for defining "hazardous fuel reduction"; it could and should be clearer regarding priorities for hazardous fuel reductions; the bill could and should be much clearer about desired outcomes; and he felt that the limited support for monitoring and research and the proposed changes in NEPA rules would undermine the opportunity to bring the best science to this important challenge.

Dr. Hal Salwasser stated that science is clear that we have major and widespread problems affecting the sustainability of healthy forests and rangelands, some related to wildfires, others to insects and diseases. He indicated that sustainable solutions will have to be tailored to each problem by local, collaborative, multiparty groups working strategically at watershed and landscape scales. Dr. Salwasser felt that the restoration of forest and rangeland health must extend beyond the wildland urban interface and in municipal watersheds, as H.R. 1904 proposes. He concluded his testimony by encouraging the Congress to engage the public universities in assisting Federal and State agencies, tribes and private groups with all the actions needed to restore and sustain this Nation's forests and rangelands.

Mr. Donald Kochan focused on the advisability of enacting legislation that allows citizens to participate in the process at the same time that it creates a system of judicial review that does not hamper the Forest Service and BLM from effectively dealing with imminent wildfire hazards within the National Forest System and on the public lands. He underscored the necessity for the Forest Service and BLM to have the authority that is contained in H.R. 1904 without waiting indefinitely for a judicial ruling during a time in which exists the risks of imminent fire hazards. Mr. Kochan indicated that the judicial review provisions of this bill are constitutionally valid and represent sound public policy. He further stated that this bill sets forth a standard which is consistent entirely with the current standard for preliminary injunctions and that the judicial review provisions will not adversely affect the Court's docket or its ability to manage its caseload.

Mr. Patrick Parenteau also focused on the judicial review provisions of H.R. 1904. He urged the Committee to take a closer look at the judicial review provisions which he felt are unprecedented, unwise and unnecessary. Mr. Parenteau said that these provisions are potentially so broad and so inclusive that they will eliminate the NEPA review in cases where the statute and the CEQ regulations would mandate review. He suggested that in this bill the Administration has moved to limit citizens' ability to appeal projects through the codified appeal procedure of the Appeals Reform Act

and also moved to exclude these projects from NEPA. He expressed concern that the phrase, "Fire adapted forest or rangeland system," is not defined in the bill or in any other Federal statute. Thus Mr. Parenteau thought that the bill was not simply about fuel reduction, but about all the activities of the Forest Service and the Department of Interior on public lands throughout the system. He took exception to giving weight to the findings of the Secretary with regard to harm from an injunction being issued. Mr. Parenteau indicated the Secretary was the defendant and the weight was not equal in this case and that would be unprecedented. He finished by stating that this provision should be deleted.

The Committee on Agriculture, Nutrition and Forestry held a business meeting on July 24, 2003 at 11:00 a.m. in SR–332 to consider H.R. 1904. The following members were present: Senators Cochran, Crapo, Dole, Ben Nelson, Miller, Coleman, Daschle, Lincoln, Chambliss, Talent, and Leahy. Chairman Cochran called the meeting to order. After statements by Senators Crapo, Cochran, Daschle and Lincoln, Chairman Cochran offered the Chairman's mark as a substitute amendment to H.R. 1904. It was adopted unanimously by a voice vote. After remarks by Senator Leahy, Chairman Cochran made the motion to report H.R. 1904 as amended out of the Committee and it was adopted unanimously by voice vote.

V. Regulatory Impact Statement

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out H.R. 1904, as amended.

This legislation provides direction to federal land management agencies, amends current law, and establishes several programs to assist states, communities and local governments, Indian tribes and private forest landowners in addressing hazardous fuels buildups and forest health problems.

This legislation does not represent a regulatory measure that imposes a regulatory mandate that must be adhered to by discrete persons in the economy absent their voluntary participation. All programs authorized under this bill that deal with private individuals, businesses or landowners are voluntary on the part of participants.

Any Government program that provides financial and other assistance must have defined regulatory guidelines and paperwork requirements to insure that the taxpayer's money is appropriately and effectively utilized.

Individuals, businesses, local units of government and private landowners who voluntarily participate in cost-sharing or technical assistance programs authorized under this legislation will be required under procedures established by the federal implementing agencies to provide evidence of meeting requirements for eligibility for the programs and to provide evidence that assistance received was utilized in accordance with the requirements of the legislation and its implementing procedures.

Because participation is voluntary, for it to occur, the financial benefits of participation must exceed the financial costs and regulatory burden imposed by the legislation.

The amounts of such assistance will depend upon the funds actually appropriated by Congress for such programs, subject to the authorization limits established in this legislation. While the goal of the legislation is to provide financial and technical assistance to states, communities and local governments, Indian tribes, and private landowners and private enterprises in reducing hazardous fuels and improving forest health conditions, it is impossible to estimate the number of persons and entities that would be affected.

Safeguards exist in these programs to preserve the privacy of persons and the confidentiality of information concerning them.

VI. BUDGETARY IMPACT OF THE BILL

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 2003.

Hon. THAD COCHRAN,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1904, the Healthy Forests Restoration Act of 2003.

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

Sincerely,

ROBERT A. SUNSHINE
(For Douglas Holtz-Eakin, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1904—Healthy Forests Restoration Act of 2003

Summary: CBO estimates that H.R. 1904 would authorize the appropriation of $140 million in 2004 and $705 million over the 2004–2008 period to research and restore forests on federal, state, and private lands. Assuming appropriation of the necessary amounts, CBO estimates that implementing the act would cost $29 million in 2004 and $589 million over the next five years. Enacting this legislation could affect offsetting receipts (a credit against direct spending), but CBO estimates that any such effects would total less than $500,000 a year.

H.R. 1904 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 funds authorized for those and other programs would benefit state, local, and tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1904 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	140	145	140	140	140
Estimated Outlays	29	91	133	165	171

Basis of estimate: For this estimate, CBO assumes that H.R. 1904 will be enacted before the end of fiscal year 2003 and that amounts estimated to be necessary to implement the legislation will be provided each year. Estimates of outlays are based on historical spending patterns for similar activities. Provisions that would affect spending subject to appropriations and direct spending are described below.

Spending Subject to Appropriation

H.R. 1904 would specifically authorize the appropriation of $115 million in 2004 and $460 million over the 2004–2008 period for the Forest Service and the Department of the Interior (DOI) to support research and restoration of federal, state, and private forests. The act would authorize those agencies to make grants and perform research to support biomass technology; provide technical and financial assistance to certain nonfederal entities to support watershed management, land rehabilitation projects, and efforts to revitalize rural economies; establish a new center to study hardwood forests; and assess the health of federal and private forests. Based on information from the agencies and historical spending patterns for similar activities, CBO estimates that these programs would cost $21 million in 2004 and $374 million over the next five years.

The act also would authorize the appropriation of amounts necessary for the Forest Service and DOI to purchase conservation easements from private landowners and to investigate and address infestations of forests by insects and nonnative invasive plants. Based on information from the agencies about the level of effort required to administer those programs, CBO estimates that H.R. 1904 would authorize the appropriation of $25 million in 2004 and $245 million over the 2004–2008 period. We estimate that such funding for these activities would result in outlays of $8 million in 2004 and $215 million over the next five years.

Direct Spending (Including Offsetting Receipts)

Title I would authorize expedited procedures for planning and conducting certain projects to reduce the risk of wildfires on certain federal lands managed by the Forest Service or the Bureau of Land Management (BLM). Under H.R. 1904, those expedited procedures would limit some environmental assessment requirements and shorten administrative and judicial appeals. According to the Forest Service and BLM, the expedited procedures could affect the timing of some projects that generate offsetting receipts, such as timber harvests, that the agencies plan to conduct under current law. Based on information from the agencies, however, CBO estimates that any subsequent change in offsetting receipts would total less than $500,000 annually.

Intergovernmental and private-sector impact: H.R. 1904 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal govern-

ments. CBO expects that states would manage the watershed forestry assistance programs authorized by this act voluntarily. Federal funds authorized for those and other programs would benefit state, local, and tribal governments.

Previous CBO estimates: On May 9, 2003, CBO transmitted a cost estimate for H.R. 1904 as ordered reported by the House Committee on Agriculture on May 8, 2003. On May 15, 2003, CBO transmitted a cost estimated for H.R. 1904 as ordered reported by the House Committee on the Judiciary on May 14, 2003. Compared to those versions of H.R. 1904, CBO estimates that the Senate committee's version of the legislation would authorize about twice as much funding to research and restore forests and provide financial and technical assistance to nonfederal entities.

In addition, on May 7, 2003, CBO transmitted a cost estimate for S. 14, the Energy Policy Act of 2003, as introduced on April 30, 2003. A provision in that bill is similar to a provision of H.R. 1904 that would authorize grants to eligible entities that use biomass to produce energy. Our estimate of the cost of such grants ($25 million a year) is the same for both pieces of legislation.

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

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

VII. MINORITY VIEWS

MINORITY VIEWS OF SENATOR LEAHY

INTRODUCTION

While the country is facing another difficult fire season, and portions of the bill are well-intentioned to address this situation, there is no quick fix to this difficult situation, which is a result of over a century of past land management and wildland fire suppression practices. We share the underlying goal of reducing the risk of wildfires on our public lands, but strongly disagree with the approach outlined in H.R. 1904. This bill contains many controversial provisions that go far beyond the jurisdiction of the Agriculture Committee. Provisions in Title I of this bill should also have been reviewed by the Energy and Natural Resources Committee and the Judiciary Committee. Provisions in other titles of this bill should have been reviewed by these committees, as well as the Environment and Public Works Committee.

In addition, there are several other proposals in other legislation that this Committee could have considered. We will have a debate over those proposals on the floor of the Senate. For that reason and in deference to member's wishes, the bill was moved by voice vote. This vote does not reflect unanimous support for the bill.

OVERVIEW

The recent wildfires in the western states demand that we find real solutions to the risk communities face from wildfire. The intended objective of the H.R. 1904 is to restore forests to a more natural condition by accelerating forest-thinning projects on federal lands and reduce fire risk. While this is an appropriate objective, we find H.R. 1904's interjection of legislative direction onto the courts unacceptable.

The Administration has stated that 190 million acres need to be treated. If that is correct, by the Administration's own admission, it will take at least eight to ten years to address the buildup of hazardous fuel loads on these many acres. Most people believe it will be much longer than that unless we do something to focus activities on those areas at greatest risk and dedicate more funding to get projects off the ground.

H.R. 1904 fails to do either of these things. In fact, the bill is written so broadly that the existing funds available for fuel reduction could easily be diluted to such a degree that the Federal agencies move backwards in reducing the risk of wildfire. The bill does not set any priorities for covering this vast acreage. When Congress funded the National Fire Plan in 2000, we specifically instructed the agencies to target the funding to areas near communities. The

National Academy of Public Administration, in its 2002 report, Wildfire Suppression: Strategies for Containing Costs, in addition, also recommended this approach, saying "treat close to communities, including municipal watersheds, before treating more distant areas." (p. 34) The report goes on to recommend specific actions:

> To effectively reduce vulnerability to losses from wildfires and help moderate suppression costs in and around community interface areas, several actions can be taken to protect structures and reduce firefighting costs: fire-safety provisions in zoning ordinances, subdivision regulations, building codes, and structural and landscape maintenance regulations; basic fire-protection infrastructure in each community and mutual-aid agreements among communities, state agencies, and federal agencies; insurance and fire-protection grading and rating systems; and pre-fire reduction of fuels build-up on public and private lands near structures. Non-federal entities have responsibility for these matters but often have not used their authority for this purpose. (p. 22, 23)

H.R. 1904 does not fund or encourage any of these actions.

H.R. 1904 also does not address the funding needs to reduce wildfire risk on either federal or non-federal lands. Again, if the Administration is correct that 190 million acres need to be treated, this effort will cost billions of dollars over the next few decades. One of the main obstacles to fuel-reduction work is lack of funding. One of NAPA's key recommendations in its 2002 report was that the hazardous fuels reduction program will "require sizable, sustained investments to make a nationwide impact." (p. 3) As the majority has stated many times, fire does not respect jurisdictional boundaries. The NAPA report showed that "most of the fires reported, 77 percent, were on non-Federal lands and 47% of acres burned are on non-Federal lands." (p. 18)

If the majority is unwilling to set priorities for addressing communities at risk or discuss alternative funding mechanisms to speed up projects, then I do not understand why we should be rushing to gut environmental laws and judicial review. Certainly, the Administration has done a great marketing job of selling environmental laws and the judicial process as the scapegoat for wildfires. The statistics contradict their statement though. A recent GAO study showed that only a quarter of the fuel reduction projects from the past two fiscal years were appealed, and most of those were quickly dealt with. Barely any had legal challenges filed against them.

Yet, the Administration also seems determined to set a new precedent to cut back environmental analysis, public review and the court's independence. H.R. 1904 is just another step in what appears to be the Administration's wholesale assault on the public's role and right to participate in the management of their public lands.

ENVIRONMENTAL ANALYSIS AND PUBLIC INVOLVEMENT

As discussed previously, the majority's assertion that environmental laws and public involvement have become obstacles to improving our response to the wildfire-related risks to our communities has not been proven. At best, the majority has only provided anecdotal evidence. It certainly does not warrant the gaping loophole to the National Environmental Policy Act (NEPA) included in H.R. 1904.

If passed, H.R. 1904 would be the first permanent statutory rollback of NEPA—the National Environmental Policy Act. It would pave the way for other efforts to roll back NEPA in other arenas, including transportation projects, energy projects, our oceans, and more. Section 104 seeks to eliminate the most important part of NEPA—the requirement that alternatives to agency actions are considered. The courts have called this consideration of alternatives the very "heart of NEPA." This alternatives analysis ensures that agencies "look before they leap,"—look beyond their initial inclination to examine alternatives with less environmental harm or greater environmental benefit. Reviewing courts have repeatedly underscored the centrality of alternatives to the statutory purpose. "[T]he heart of the EIS is the requirement that an agency rigorously explore and objectively evaluate the projected environmental impacts of all reasonable alternatives for completing the proposed action." *Van Ee* v. *E.P.A.* 202 F.3d 296, 309 (D.C. Cir. 2000).

Section 403 of H.R. 1904 creates a new category of projects to be excluded from NEPA review. While NEPA regulations allow for such "categorical exclusions" for some activities, that has heretofore always been based on knowledge that the excluded category will not cause significant environmental harm. H.R. 1904 lacks this safeguard and therefore amounts to a complete repeal of NEPA for the project category. It is likely that little to no environmental review would be conducted.

Again, I must ask why these new loopholes in NEPA are necessary when the Forest Service is already able to do most of its fuel reduction projects under categorical exclusions now. According to the GAO report, the vast majority of acres treated, 3 million of 4.7 million, were categorically excluded from NEPA review. In terms of acreage, 60% of all decisions involving hazardous fuels reduction were categorically excluded from NPEA review. None of these were appealed or litigated. Therefore, all categorical exclusions are going through without controversy.

APPEALS AND JUDICIAL REVIEW

The majority views assert that administrative and judicial review has become a procedural barrier to quick implementation of fuel-reduction projects. Again, this assertion does not have any factual basis.

Section 105 exempts fuel reduction projects from the Appeals Reform Act of 1992 which provides citizens the right to appeal unlawful Forest Service decisions. Instead, H.R. 1904 gives the Administration a blank check to develop its own process. The appeals process is not only used by environmental groups, as the Administration asserts, but is also used by landowners, local businesses and

neighboring towns. According to a report by the Northern Arizona University, ranchers actually file more appeals than environmental groups. The Administration argues that this provision is needed because appeals have become a roadblock to fuel reduction projects. However, the Forest Service does not have a national database of fuels reduction decisions, appeals or litigation to back up this point. All they have offered is a flawed report that used inaccurate accounting and left out large categories of fuel reduction projects.

Studies by the General Accounting Office and Northern Arizona University show that administrative appeals do not slow down fuel reduction projects. The GAO study showed that only 24 percent of the fuel reduction projects from the past two fiscal years were appealed. Of those, 79 percent were dealt with in 90 days or less.

Sections 106 and 107 take extraordinary steps to limit citizens' right to seek redress from government action in court, micromanage judicial decisions and tilt the scales of justice in favor of fuel reduction projects. As Professor Parenteau testified in the one hearing held on this bill, "Section 106 imposes unreasonable deadlines on litigants and the courts, attempts to prioritize federal dockets, limits judicial authority and imposes additional procedural steps and workload on busy, understaffed federal courts struggling to reduce the backlog of cases." Specifically, Section 106 would do this by restricting the time the public has to challenge decisions to only 15 days. This provision eliminates any meaningful opportunity to explore options for resolving controversies over proposed projects. In fact, it is barely enough time for attorneys to investigate the facts and determine whether a case has merit. This provision could very well backfire and cause more lawsuits and delay over projects rather than expedite them.

Section 106 also imposes unreasonable limits and instructions on judges. It prohibits judges from granting waivers to the filing deadline, urges courts to expedite consideration of cases and limits any preliminary injunction to 45 days. This section tries to dictate to the courts which cases on their dockets are most important at any particular time. If 190 million acres really do need to be treated, it is hard to imagine the number of cases that might flood federal courts as a result of these provisions in section 106 and be "fast-tracked" by judges.

Section 107 is a blatant attempt to bias the judgement of the courts by emphasizing the "harm to the defendant" as the dominant consideration in weighing equities. For these projects, the defendant is the government. In essence, this section is telling the courts to give greater weight to the government's determination on whether a project should go forward even if the court finds that the agency has violated the law. This new standard applies not only to fuel reduction projects, but also to any project on Federal lands that "is necessary to restore fire-adapted forest or rangeland system." This significantly broadens the scope of section 107 far beyond what the Administration stated intention is for H.R. 1904.

Again, the Administration has not proved its assertion that judicial review is slowing down projects or that courts are not applying equitable remedies. The GAO study found that only 3 percent, specifically 23 of 762 hazardous fuels reduction projects had legal challenges filed against them. How can an average of 13 legal chal-

lenges on hazardous fuels projects a year constitute the kind of gridlock that would merit anything like the permanent changes proposed in H.R. 1904? In addition, courts have the authority to weigh short and long term effects of injunctive relief and use it. In a recent case (Forest Conservation Council v. United States Forest Service, CV 03–0054 FJM July 9, 2003), the court, after finding that the government had violated NEPA, declined to enjoin the project because it determined that the long-term harm from delaying the logging outweighed the short-term harm of allowing the project from going forward without an Environmental Assessment.

CONCLUSION

H.R. 1904 misses the mark on several fronts. Unfortunately, it will do very little to improve the ability of the Forest Service to speed up fuel reduction projects on the ground but its doing great harm to the basic rights of the public to review the management decisions for our public lands. Congress should take a step back and consider other proposals to help manage the wildfire risk on our Federal and non-Federal lands. We should recognize the limited resources available for these projects and set priorities to fund projects in the wildland-urban interface first. We should put more funding towards helping our state and local partners protect communities. And, we should and can reduce the risk without gutting environmental, administration and judicial review.

VIII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made in the bill, as reported, are shown as follows: (1) Existing law that is proposed to be terminated is enclosed in black brackets; (2) New material is printed in italic; and (3) Existing law in which no change is proposed is shown in roman font.

BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000

TITLE III—BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000

SEC. 301. SHORT TITLE.

* * * * * * *

SEC. 307. BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.

* * * * * * *

(d) USES OF GRANTS, CONTRACTS, AND ASSISTANCE.—A grant, contract, or assistance under this section may be used to conduct—

* * * * * * *

(3) research aimed at ensuring the environmental performance and economic viability of biobased industrial products and their raw material input of biomass when considered as an integrated system, including research on—

* * * * * * *

(C) the field and laboratory research related to feedstock production with the interrelated goals of enhancing the sustainability, increasing productivity, and decreasing the cost of biomass processing, including research on—

* * * * * * *

(iv) development of economically viable cropping systems that improve the conservation and restoration of marginal land; [or]

(4) any research and development in technologies or processes determined by the Secretary of Agriculture and the Secretary of Energy, acting through their respective points of contact and in consultation with the Board, to be consistent with the purposes described in subsection (b) and the priority described in subsection (c)(2)(B)[.] *or*

(5) research to integrate silviculture, harvesting, product development, processing information, and economic evaluation to provide the science, technology, and tools to forest managers and community developers for use in evaluating forest treatment and production alternatives, including—

(A) to develop tools that would enable land managers, locally or in a several-State region, to estimate—

(i) the cost to deliver varying quantities of wood to a particular location; and

(ii) the amount that could be paid for stumpage if delivered wood was used for a specific mix of products;

(B) to conduct research focused on developing appropriate thinning systems and equipment designs that are—

(i) capable of being used on land without significant adverse effects on the land;

(ii) capable of handling large and varied landscapes;

(iii) adaptable to handling a wide variety of tree sizes;

(iv) inexpensive; and

(v) adaptable to various terrains; and

(C) to develop, test, and employ in the training of forestry managers and community developers curricula materials and training programs on matters described in subparagraphs (A) and (B).

* * * * * * *

SEC. 310. FUNDING.

(a) FUNDING.—Of funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this title—

(1) $5,000,000 for fiscal year 2002; and

* * * * * * *

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts transferred under subsection (a), there are authorized to be appropriated to carry out this title **[**$49,000,000**]** *$54,000,000* for each of fiscal years 2002 through 2007 *of which not less than $5,000,000 shall be used for each fiscal year to carry out section 307(d)(5).*

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FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

TITLE XII—STATE AND PRIVATE FORESTRY

SEC. 1201. SHORT TITLE.

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[SEC. 1243. SEMIARID AGROFORESTRY RESEARCH CENTER.]

SEC. 1243. USDA NATIONAL AGROFORESTRY CENTER.

(a) **[**SEMIARID**]** *USDA NATIONAL* AGROFORESTRY RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTER.—The Secretary of Agriculture shall establish at the Forestry Sciences Laboratory of the United States Forest Service, in Lincoln, Nebraska, a **[**Semiarid**]** *USDA National* Agroforestry Research, Development, and Demonstration Center (hereafter referred to in this section as the "Center") and appoint a Director to manage and coordinate the program established at the Center under subsection (b).

(b) PROGRAM.—The Secretary shall establish a program at the Center and seek the participation of Federal or State governmental

entities, *local governments, community organizations, the Institute of Tropical Forestry and the Institute of Pacific Islands Forestry of the Forest Service*, land-grant colleges or universities, State agricultural experiment stations, State and private foresters, the National Arbor Day Foundation, and other nonprofit foundations in such program to conduct or assist research, investigations, studies, and surveys to—

(1) develop sustainable agroforestry systems on [semiarid] lands that minimize topsoil loss and water contamination and stabilize or enhance crop productivity;

(2) adapt, demonstrate, document, and model the effectiveness of agroforestry systems under different farming systems and soil or climate conditions;

(3) develop dual use agroforestry systems compatible with paragraphs (1) and (2) which would provide high-value forestry products for commercial sale [from semiarid land];

[(4) develop and improve the drought and pest resistance characteristics of trees for conservation forestry and agroforestry applications in semiarid regions, including the introduction and breeding of trees suited for the Great Plains region of the United States;]

(4) collect information on the design, installation, and function of forested riparian and upland buffers to—

(A) protect water quality; and

(B) manage water flow;

(5) develop technology transfer programs that increase farmer and public acceptance of sustainable agroforestry systems;

(6) develop improved windbreak and shelterbelt technologies for drought preparedness, soil and water conservation, environmental quality, and biological diversity [on semiarid lands];

(7) develop technical and economic concepts for sustainable agroforestry [on semiarid lands], including the conduct of economic analyses of the costs and benefits of agroforestry systems and the development of models to predict the economic benefits under soil or climate conditions;

[(8) provide international leadership in the development and exchange of agroforestry practices on semiarid lands worldwide;]

(8) provide international leadership in the worldwide development and exchange of agroforestry practices;

(9) support research on the effects of agroforestry systems [on semiarid lands] in mitigating nonpoint source water pollution;

(10) support research on the design, establishment, and maintenance of tree and shrub plantings to regulate the deposition of snow along roadways; [and]

(11) conduct sociological, demographic, and economic studies as needed to develop strategies for increasing the use of forestry conservation and agroforestry practices[.]*;*

(12) quantify the carbon storage potential of agroforestry practices such as—

(A) windbreaks;

(B) forested riparian buffers;

(C) silvopasture timber and grazing systems; and

(D) alley cropping; and

(13) modify and adapt riparian forest buffer technology used on agricultural land for use by communities to manage stormwater runoff.

* * * * * * *

SEC. 2371. FORESTRY RURAL REVITALIZATION.

(a) ESTABLISHMENT OF ECONOMIC DEVELOPMENT AND GLOBAL MARKETING PROGRAM.—The Secretary of Agriculture, acting through the Extension Service and the Cooperative Extension System, and in consultation with the Forest Service, shall establish and implement educational programs and provide technical assistance to assist businesses, industries, and policymakers to create jobs, raise incomes, and increase public revenues in manners consistent with environmental concerns.

* * * * * * *

(3) use the full resources of the Cooperative Extension Service, including land-grant universities and county offices, to promote economic development that is sustainable and environmentally sound.

(d) RURAL REVITALIZATION TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Forest Service, in consultation with the State and Private Forestry Technology Marketing Unit at the Forest Products Laboratory, and in collaboration with eligible institutions, may carry out a program—

(A) to accelerate adoption of technologies using biomass and small-diameter materials;

(B) to create community-based enterprises through marketing activities and demonstration projects; and

(C) to establish small-scale business enterprises to make use of biomass and small-diameter materials.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2004 through 2008.

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COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978

SEC. 5. FOREST STEWARDSHIP PROGRAM.

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(h) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary thereafter, to carry out this section.

[SEC. 6. Section 6 repealed by section 8001(a) of P.L. 107 09171, 116 Stat. 468.]

SEC. 6. WATERSHED FORESTRY ASSISTANCE PROGRAM.

(a) DEFINITION OF NONINDUSTRIAL PRIVATE FOREST LAND.—In this section, the term "nonindustrial private forest land" means rural land, as determined by the Secretary, that—

(1) has existing tree cover or that is suitable for growing trees; and

(2) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decisionmaking authority over the land.

(b) GENERAL AUTHORITY AND PURPOSE.—The Secretary, acting through the Chief of the Forest Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, and officials of the Cooperative State Research, Education, and Extension Service for the purpose of expanding State forest stewardship capacities and activities through State forestry best-management practices and other means at the State level to address watershed issues on non-Federal forested land and potentially forested land.

(c) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

(1) IN GENERAL.—The Secretary, in cooperation with State foresters, officials of the Cooperative State Research, Education, and Extension Service, or equivalent State officials, shall engage interested members of the public, including nonprofit organizations and local watershed councils, to develop a program of technical assistance to protect water quality described in paragraph (2).

(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, and local levels;

(B) to provide State forestry best-management practices and water quality technical assistance directly to owners of nonindustrial private forest land;

(C) to provide technical guidance to land managers and policymakers for water quality protection through forest management;

(D) to complement State and local efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal and State agencies charged with responsibility for water and watershed management; and

(E) to provide enhanced forest resource data and support for improved implementation and monitoring of State forestry best-management practices.

(3) IMPLEMENTATION.—The program of technical assistance shall be implemented by State foresters or equivalent State officials.

(d) WATERSHED FORESTRY COST-SHARE PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a watershed forestry cost-share program—

(A) which shall be—

(i) administered by the Forest Service; and

(ii) implemented by State foresters or equivalent State officials; and

(B) under which funds or other support provided shall be made available for State forestry best-management practices programs and watershed forestry projects.

(2) WATERSHED FORESTRY PROJECTS.—The State forester, State Research, Education and Extension official, or equivalent

State official of a State, in coordination with the State Forest Stewardship Coordinating Committee established under section 19(b) (or an equivalent committee) for that State, shall make awards to communities, nonprofit groups, and owners of non-industrial private forest land under the program for watershed forestry projects described in paragraph (3).

(3) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within a State by demonstrating the value of trees and forests to watershed health and condition through—

(A) the use of trees as solutions to water quality problems in urban and rural areas;

(B) community-based planning, involvement, and action through State, local and nonprofit partnerships;

(C) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

(D) watershed-scale forest management activities and conservation planning; and

(E)(i) the restoration of wetland (as defined by the States) and stream-side forests; and

(ii) the establishment of riparian vegetative buffers.

(4) COST-SHARING.—

(A) FEDERAL SHARE.—

(i) FUNDS UNDER THIS SUBSECTION.—Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project.

(ii) OTHER FEDERAL FUNDS.—The percentage of the cost of a project described in clause (i) that is not covered by funds made available under this subsection may be paid using other Federal funding sources, except that the total Federal share of the costs of the project may not exceed 90 percent.

(B) FORM.—The non-Federal share of the costs of a project may be provided in the form of cash, services, or other in-kind contributions.

(5) PRIORITIZATION.—The State Forest Stewardship Coordinating Committee for a State, or equivalent State committee, shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

(6) WATERSHED FORESTER.—Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State watershed or best-management practice forester position to—

(A) lead statewide programs; and

(B) coordinate watershed-level projects.

(e) DISTRIBUTION.—

(1) IN GENERAL.—Of the funds made available for a fiscal year under subsection (g), the Secretary shall use—

(A) at least 75 percent of the funds to carry out the cost-share program under subsection (d); and

(B) the remainder of the funds to deliver technical assistance, education, and planning, at the local level, through the State Forester or equivalent State official.

(2) SPECIAL CONSIDERATIONS.—Distribution of funds by the Secretary among States under paragraph (1) shall be made only after giving appropriate consideration to—

(A) the acres of agricultural land, nonindustrial private forest land, and highly erodible land in each State;

(B) the miles of riparian buffer needed;

(C) the miles of impaired stream segments and other impaired water bodies where forestry practices can be used to restore or protect water resources;

(D) the number of owners of nonindustrial private forest land in each State; and

(E) water quality cost savings that can be achieved through forest watershed management.

(f) WILLING OWNERS.—

(1) IN GENERAL.—Participation of an owner of nonindustrial private forest land in the watershed forestry assistance program under this section is voluntary.

(2) WRITTEN CONSENT.—The watershed forestry assistance program shall not be carried out on nonindustrial private forest land without the written consent of the owner of, or entity having definitive decisionmaking over, the nonindustrial private forest land.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2004 through 2008.

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SEC. 10A. [ENHANCED COMMUNITY FIRE PROTECTION.]

An Act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

* * * * * * *

[SEC. 17. The provisions of this Act shall become effective October 1, 1978.]

SEC. 17. FOREST INVENTORY AND MANAGEMENT.

(a) IN GENERAL.—The Secretary shall carry out a program using geospatial and information management technologies (including remote sensing imaging and decision support systems) to inventory, monitor, characterize, assess, and identify forest stands and potential forest stands (with emphasis on hardwood forest stands) on

(1) in units of the National Forest System; and

(2) on private forest land, with the consent of the owner of the land.

(b) MEANS.—The Secretary shall carry out the program through the use of—

(1) remote sensing technology of the National Aeronautics and Space Administration and the United States Geological Survey;

(2) emerging geospatial capabilities in research activities;

(3) validating techniques using application demonstrations; and

(4) integration of results into pilot operational systems.

(c) ISSUES TO BE ADDRESSED.—In carrying out the program, the Secretary shall address issues including—

(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, acid deposition, and weather-related risks and other episodic events);

(2) loss or degradation of forests;

(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

(4) quantification of carbon uptake rates; and

(5) management practices that focus on preventing further forest degradation.

(d) EARLY WARNING SYSTEM.—In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

(1) isolate and treat a threat before the threat gets out of control; and

(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2004 through 2009.

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