105TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPT. 105–440 Part 1

FOREST RECOVERY AND PROTECTION ACT OF 1998

MARCH 12, 1998.—Ordered to be printed

Mr. SMITH of Oregon, from the Committee on Agriculture, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 2515]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 2515) to address the declining health of forests on Federal lands in the United States through a program of recovery and protection consistent with the requirements of existing public land management and environmental laws, to establish a program to inventory, monitor, and analyze public and private forests and their resources, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Forest Recovery and Protection Act of 1998".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. National Program of Forest Recovery and Protection.
Sec. 5. Scientific Advisory Panel.
Sec. 6. Advance recovery projects.
Sec. 7. Forest Recovery and Protection Fund.
Sec. 8. Authorization of appropriations.

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Sec. 9. Audit requirements.
Sec. 10. Forest inventorying and analysis.

SEC. 2. FINDINGS.

Congress finds the following:

(1) There are tradeoffs in values associated with proactive, passive, or delayed forest management. The values gained by proactive management outweigh the values gained by delayed or passive management of certain Federal forest lands.

(2) Increases in both the number and severity of wildfire, insect infestation, and disease outbreaks on Federal forest lands are occurring as a result of high tree densities, species composition, and structure that are outside the historic range of variability. These disturbances cause or contribute to significant soil erosion, degradation of air and water quality, loss of watershed values, habitat loss, and damage to other forest resources.

(3) Serious destruction or degradation of important forest resources occurs in all regions of the United States. Management activities to restore and protect these resources in perpetuity are needed in each region and should be designed to address region-specific needs.

(4) According to the Chief of the United States Forest Service, between 35 and 40 million of the 191 million acres of Federal forest lands managed by the Forest Service are at an unacceptable risk of destruction by catastrophic wildfire. The condition of these forests can pose a significant threat of destruction to human life and property as well as to the habitat for fish and wildlife (including threatened and endangered species), public recreation areas, timber, watersheds, and other important forest resources.

(5) Restoration and protection of important forest resources require active forest management involving a range of management activities, including thinning, salvage, prescribed fire (after appropriate thinning), sanitation and other insect and disease control, riparian and other habitat improvement, soil stabilization and other water quality improvement, and seedling planting and protection.

(6) Many units of the National Forest System have an increasing backlog of unfunded projects to restore and protect degraded forest resources. Adequate funding, structured so as to maximize the allocation of monies for on-the-ground projects, is needed to address this backlog in an efficient, cost-effective way.

(7) A comprehensive, nationwide effort is needed to restore and protect important forest resources in an organized, timely, and scientific manner. There should be immediate action to improve the areas of Federal forest lands where serious resource degradation has been thoroughly identified and assessed or where serious resource destruction or degradation by natural disturbance is imminent.

(8) Congress and the Comptroller General have identified the need to increase agency accountability for achieving measurable results at all levels of government, both in the management of fiscal resources and in carrying out statutory mandates. Additional funding to address the backlog of recovery projects in the National Forest System must, therefore, be accompanied by performance standards and accountability mechanisms that will clearly demonstrate the results achieved by any additional investment of taxpayer dollars.

(9) Frequent forest inventory and analysis of the status and trends in the conditions of forests and their resources are needed to identify and reverse the destruction or degradation of important forest resources in a timely and effective manner. The present average 12- to 15-year cycle of forest inventory and analysis to comply with existing statutory requirements is too prolonged to provide forest managers with the data necessary to make timely and effective management decisions, particularly decisions responsive to changing forest conditions.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL FOREST LANDS.—The term "Federal forest lands" means lands within the National Forest System.

(2) FUND.—The terms "Forest Recovery and Protection Fund" and "Fund" mean the fund established under section 7.

(3) IMPLEMENTATION DATE.—The term "implementation date" means January 15, 2000, or the first day of the 19th full month following the date of the enactment of this Act, whichever is later. However, if the implementation date under the second option would occur within six months of the next January 15, the Secretary may designate that January 15 as the implementation date.

(4) LAND MANAGEMENT PLAN.—The term "land management plan" means a land and resource management plan prepared by the Forest Service pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) for Federal forest lands under the jurisdiction of the Secretary of Agriculture.

(5) NATIONAL PROGRAM.—The term "national program" means the National Program of Forest Recovery and Protection required by section 4.

(6) OVERHEAD EXPENSES.—The terms "overhead expenses" and "overhead" mean—

(A) common services and indirect expenses, as such terms are defined by expense items 1–10 in Appendix E of the United States Forest Service Timber Cost Efficiency Study Final Report, dated April 16, 1993 (pages 125–126);

(B) direct and indirect general administration expenses, as such terms are identified in Appendix D of the United States Forest Service Forest Management Program Annual Report, Fiscal Year 1996 (FS–614), dated December, 1997 (pages 110–111); and

(C) any other cost of line management or program support that cannot be directly attributable to specific projects or programs.

(7) RECOVERY AREA.—The term "recovery area" means an area of Federal forest lands, identified by the Secretary under section 4(c)—

(A) that has experienced disturbances from wildfires, insect infestations, disease, wind, flood, or other causes, which have caused or contributed to significant soil erosion, degradation of water quality, loss of watershed values, habitat loss, or damage to other forest resources of the area; or

(B) in which the forest structure, function, or composition has been altered so as to increase substantially the likelihood of wildfire, insect infestation, or disease in the area and the consequent risks of damage to soils, water quality, watershed values, habitat, and other forest resources from wildfire, insect infestation, disease, wind, flood, or other causes.

(8) RECOVERY PROJECT.—The term "recovery project" means a project designed by the Secretary to improve, restore, or protect forest resources within an identified recovery area, including thinning, salvage, prescribed fire (after appropriate thinning), sanitation and other insect and disease control, riparian and other habitat improvement, soil stabilization and other water quality improvement, and seedling planting and protection.

(9) SCIENTIFIC ADVISORY PANEL.—The term "Scientific Advisory Panel" means the advisory panel appointed under section 5.

(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

SEC. 4. NATIONAL PROGRAM OF FOREST RECOVERY AND PROTECTION.

(a) NATIONAL PROGRAM REQUIRED.—Not later than the implementation date, the Secretary shall commence a national program to restore and protect forest resources located on Federal forest lands in the United States through the performance of recovery projects in identified recovery areas.

(b) STANDARDS AND CRITERIA.—

(1) INITIAL PUBLICATION.—Not later than the implementation date, the Secretary shall publish in the Federal Register the standards and criteria to be used for the identification of, and the assignment of management priority rankings to, recovery areas. In establishing the standards and criteria, the Secretary shall consider the standards and criteria recommended by the Scientific Advisory Panel under section 5(f). The Secretary shall include in the Federal Register entry required by this paragraph an explanation of any significant differences between the recommendations of the Scientific Advisory Panel and the standards and criteria actually established by the Secretary.

(2) MODIFICATION.—The Secretary may modify the standards and criteria established pursuant to paragraph (1). Any such modification shall also be published in the Federal Register.

(3) EFFECT ON EXISTING LAND MANAGEMENT PLANS.—The standards and criteria established pursuant to paragraph (1), or any modification thereto, shall not amend, revise, replace, or otherwise alter any existing land management plan.

(c) IDENTIFICATION OF RECOVERY AREAS.—

(1) ALLOCATION OF FUNDS; IDENTIFICATION AND RANKING OF RECOVERY AREAS.—For each fiscal year during the national program, the Secretary shall allocate, in accordance with the standards and criteria established and in effect under subsection (b), amounts from the Forest Recovery and Protection Fund

to regions of the Forest Service for the purpose of conducting recovery projects in identified recovery areas. In making such allocations, the Secretary shall—

(A) identify recovery areas within which allocated amounts should be used to conduct recovery projects; and

(B) prioritize recovery areas for the purpose of their receiving allocated amounts.

(2) NOTICE REQUIRED.—On the implementation date, and for each fiscal year during the national program in which the identification or ranking of recovery areas will change, the Secretary shall publish in the Federal Register a notice regarding the determinations required under paragraph (1). The notice shall be published not later than the following:

(A) In the case of the initial notice, the implementation date.

(B) In the case of each subsequent notice, January 15 of each fiscal year after the fiscal year in which the implementation date occurs.

(3) REQUIREMENTS FOR NOTICE.—The annual notice required by paragraph (2) shall include the following:

(A) An identification of the recovery areas for which the Secretary has allocated funds under paragraph (1).

(B) The prioritization of recovery areas for the purpose of their receiving allocated funds under paragraph (1).

(C) The total acreage, nationally and by recovery area, proposed for treatment during the fiscal year using amounts allocated under paragraph (1).

(D) A breakdown of the amounts allocated to each region of the Forest Service under paragraph (1).

(4) AUTHORIZED USE OF FUNDS FOR MULTIYEAR PROJECTS.—Amounts allocated by the Secretary pursuant to paragraph (1) shall be available, without further allocation by the Secretary, to carry out and administer multiyear recovery projects beyond the fiscal year in which the funds are allocated by the Secretary.

(d) SELECTION OF RECOVERY PROJECTS.—

(1) SELECTION AND FINAL DECISION REQUIRED.—Not later than 120 days after the date of the publication of the notice required under subsection (c)(2) for a fiscal year, the regional forester (or the designees of the regional forester) in each region in which recovery areas are identified and to which funds are allocated under subsection (c) shall select and render a final decision on the recovery projects to be carried out within each identified recovery area.

(2) PROHIBITED PROJECT LOCATIONS.—The regional forester (or the designees of the regional forester) shall not select or implement a recovery project under the authority of this Act in any of the following:

(A) Any unit of the National Wilderness Preservation System or any roadless area on Federal forest lands designated by Congress for study for possible inclusion in such system.

(B) Any riparian area, late successional reserve, or old growth area within which the implementation of recovery projects is prohibited by the applicable land management plan.

(C) Any other area in which the implementation of recovery projects is prohibited by law, a court order, or the applicable land management plan.

(e) REQUIREMENTS FOR RECOVERY PROJECT SELECTION.—In selecting recovery projects as required under subsection (d), the regional forester (or the designees of the regional forester) in each region shall—

(1) identify for each recovery project the total acreage requiring treatment, the estimated cost of preparation and implementation, and the estimated project duration;

(2) ensure that the total acreage in a recovery area to be treated by recovery projects during the fiscal year is not less than the total acreage identified by the Secretary under subsection (c)(3)(C) for that recovery area;

(3) consider the economic benefits to be provided to local communities as a result of each recovery project, but only to the extent that such considerations are consistent with the standards and criteria for recovery areas established and in effect under subsection (b) and the priorities established by the ranking of recovery areas under subsection (c);

(4) ensure that each recovery project is consistent with the land management plan applicable to the recovery area within which the recovery project will be conducted; and

(5) ensure that each recovery project is designed to be implemented in the most cost-effective manner, except that a recovery project is not precluded simply because the cost of preparing and implementing the recovery project is likely to exceed the revenue derived from the recovery project.

(f) PETITION PROCESS.—

(1) REQUEST FOR IDENTIFICATION AS RECOVERY AREA.—Not later than 180 days after the implementation date, any interested person may petition the Secretary to identify a specific area of Federal forest lands as a recovery area for which funds should be allocated pursuant to subsection (c). Each area specified in such a petition must be at least one thousand acres in size.

(2) CONTENT.—The petition shall contain a reasonably precise description of the boundaries of the area included in the petition and the reasons why the petitioner believes the area meets the standards and criteria, established pursuant to subsection (b), required for identification as a recovery area.

(3) NOTICE AND COMMENT.—Not later than 210 days after the implementation date, the Secretary shall publish in the Federal Register a notice of the availability of the petitions filed with the Secretary pursuant to paragraph (1) for public comment. During the 30-day period beginning on the date the notice is published, the Secretary shall accept comments on the petitions.

(4) DETERMINATION.—If the Secretary determines that an area described in a petition under this subsection warrants identification as a recovery area, the Secretary shall include the area in the list of recovery areas identified in the first notice prepared under subsection (c) after the implementation date. If the Secretary determines that the area does not warrant identification as a recovery area, the Secretary shall provide the reasons therefor in that same Federal Register entry.

(g) ANNUAL REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than the implementation date, and each January 15 thereafter, the Secretary shall submit to Congress a report on the allocation of funds and the identification and ranking of recovery areas required under subsection (c).

(2) REPORT CONTENTS.—Each report required by paragraph (1) shall include the following:

(A) An identification of, and justification for, the recovery areas for which the Secretary has allocated funds under subsection (c).

(B) The prioritization of recovery areas for the purpose of their receiving allocated funds under subsection (c).

(C) The total acreage, nationally and by recovery area, requiring treatment by recovery projects during the fiscal year using amounts allocated under subsection (c).

(D) A breakdown of the amounts allocated to each region of the Forest Service under subsection (c).

(3) ADDITIONAL REQUIREMENTS.—After the initial report required by paragraph (1), each subsequent report shall also include the following:

(A) A list, by recovery area, of the recovery projects selected during the prior fiscal year including, for each recovery project, the following:

(i) A description of the management objectives of the project.

(ii) The total acreage requiring treatment, the estimated cost of preparation and implementation, and the estimated project duration.

(iii) The total acreage treated by the recovery project during the fiscal year.

(iv) The projected economic benefits (if any) the project will provide to local communities.

(B) A list, by recovery area, of the recovery projects completed during the prior fiscal year including, for each recovery project, a comparison of the following:

(i) The projected and actual management objectives achieved by the project.

(ii) The projected and actual preparation and implementation costs of the project.

(iii) The projected and actual economic benefits to local communities provided by the project.

(C) An explanation of the following:

(i) Why final decisions on any recovery projects selected during the prior fiscal year were not rendered within the timeframe required under subsection (d)(1) and an accounting of the steps taken by the Secretary relative to the projects pursuant to the requirements of section 7(d); and

(ii) Why any recovery projects were not begun, undertaken, or completed as scheduled.

(D) A description of any additional resources or authorities needed by the Secretary to implement and carry out the national program in an efficient and cost-effective manner.

(4) NOTICE OF AVAILABILITY.—The Federal Register entry required for each fiscal year under subsection (c)(2) shall contain a notice of availability of the most-recent report to Congress required by this subsection.

(h) EXCEPTIONS TO AGENCY ACTION.—For purposes of implementing or carrying out this Act, the following activities do not constitute agency action:

(1) The establishment and publication in the Federal Register of standards and criteria to be used for the identification of, and the assignment of management priority rankings to, recovery areas under subsection (b).

(2) The allocation of amounts from the Forest Recovery and Protection Fund, the identification and ranking of recovery areas, and the publication of notice in the Federal Register under subsection (c).

(3) The preparation and submission of the annual reports to Congress under subsection (g) and section 6(e).

(i) ADMINISTRATIVE APPEALS.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note), shall apply with respect to actions undertaken to implement this Act, including the final decision selecting recovery projects, except that the administrative stay required by subsection (e) of that section shall apply only to the specific recovery project or projects that are the subject of the administrative appeal.

SEC. 5. SCIENTIFIC ADVISORY PANEL.

(a) ESTABLISHMENT.—There is established a panel of scientific advisers to the Secretary to be known as the "Scientific Advisory Panel".

(b) COMPOSITION OF PANEL.—

(1) APPOINTMENT FROM LIST OF EXPERTS.—The Scientific Advisory Panel shall consist of 11 members appointed as provided in subsection (c) from a list, to be prepared by the National Academy of Sciences, that consists of—

(A) persons with expertise in the natural sciences who, through the publication of peer-reviewed scientific literature have demonstrated expertise in matters relevant to forest resource management; and

(B) State foresters (or persons with similar managerial expertise) who, through the publication of peer-reviewed scientific literature or other similar evidence of significant scientific or professional accomplishment, have demonstrated expertise in matters relevant to forest resource management.

(2) PREPARATION OF LIST.—The National Academy of Sciences shall prepare the list required by paragraph (1) not later than 30 days after the date of the enactment of this Act. In the preparation of the list, the National Academy of Sciences shall consult with scientific and professional organizations whose members have relevant experience in forest resource management.

(c) APPOINTMENT PROCESS.—The members of the Scientific Advisory Panel shall be selected from the list described in subsection (b) as follows:

(1) One member appointed by the Chairman of the Committee on Agriculture of the House of Representatives, in consultation with the ranking minority member of the Committee.

(2) One member appointed by the Chairman of the Committee on Resources of the House of Representatives, in consultation with the ranking minority member of the Committee.

(3) One member appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate, in consultation with the ranking minority member of the Committee.

(4) One member appointed by the Chairman of the Committee on Energy and Natural Resources of the Senate, in consultation with the ranking minority member of the Committee.

(5) Three members appointed by the Secretary.

(6) Four members appointed by the National Academy of Sciences.

(d) ADMINISTRATIVE MATTERS.—

(1) TIME FOR APPOINTMENT.—Appointments of members of the Scientific Advisory Panel shall be made as follows:

(A) The appointment of members under paragraphs (1) through (4) of subsection (c) shall be made within 30 days after the date on which the list described in subsection (b) is first made available.

(B) The appointment of members under paragraphs (5) and (6) of subsection (c) shall begin after the appointments required under paragraphs (1) through (4) of such subsection have been made so that the persons making the appointments under paragraphs (5) and (6) of such subsection can en-

sure that the requirement specified in subsection (e) for a balanced representation of scientific disciplines on the Scientific Advisory Panel is satisfied. The appointments shall be completed within 60 days after the date on which the list described in subsection (b) is first made available.

(2) TERM AND VACANCIES.—A member of the Scientific Advisory Panel shall be appointed for a term beginning on the date of the appointment and ending on the implementation date. A vacancy on the Scientific Advisory Panel shall be filled within 30 days in the manner in which the original appointment was made.

(3) COMMENCEMENT OF ACTIVITY.—The Scientific Advisory Panel may commence its duties under subsection (f) as soon as at least eight of the members have been appointed under subsection (c). At the initial meeting, the members of the Scientific Advisory Panel shall select one member to serve as chairperson.

(4) CONFLICT OF INTERESTS.—A person may not serve as a member of the Scientific Advisory Panel if the member has a conflict of interest with regard to any of the duties to be performed by the Scientific Advisory Panel under subsection (f). Decisions regarding the existence of a conflict of interest shall be made by the Scientific Advisory Panel.

(e) BALANCED REPRESENTATION OF SCIENTIFIC DISCIPLINES.—The Scientific Advisory Panel shall include at least one representative of each of the following:

(1) Hydrologist.
(2) Wildlife biologist.
(3) Fisheries biologist.
(4) Entomologist or pathologist.
(5) Fire ecologist.
(6) Silviculturist.
(7) Economist.
(8) Soil scientist.
(9) State forester or person with similar managerial expertise.

(f) DUTIES IN CONNECTION WITH IMPLEMENTATION.—During the period beginning on the initial meeting of the Scientific Advisory Panel and ending on the implementation date, the Scientific Advisory Panel shall be responsible for the following:

(1) The preparation and submission to the Secretary and the Congress of recommendations regarding the standards and criteria that should be used to identify recovery areas and rank them in the order in which they should host recovery projects.

(2) The preparation of and submission to the Secretary and the Congress of a monitoring plan for the national program of sufficient duration to determine the long-term impacts of the national program.

(g) CONSIDERATIONS.—In the development of its recommendations under subsection (f), the Scientific Advisory Panel shall—

(1) consult as appropriate with region-specific scientific experts in forest ecology, hydrology, wildlife biology, entomology, pathology, soil science, economics, social sciences, and other appropriate scientific disciplines;

(2) consider the most current peer-reviewed scientific literature regarding the duties undertaken by the Panel; and

(3) incorporate information gathered during the implementation of the advance recovery projects required under section 6.

(h) ALLOCATION OF FOREST SERVICE PERSONNEL.—The Forest Service shall allocate administrative support staff to the Scientific Advisory Panel to assist the Panel in the performance of its duties as outlined in this section.

(i) FEDERAL ADVISORY COMMITTEE ACT COMPLIANCE.—The Scientific Advisory Panel shall be subject to sections 10 through 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 6. ADVANCE RECOVERY PROJECTS.

(a) SELECTION OF ADVANCE PROJECTS.—During the 18-month period beginning on the date of the enactment of this Act, the Secretary shall allocate amounts from the Forest Recovery and Protection Fund to Forest Service regions for the purpose of conducting a limited number (as determined by the Secretary) of advance recovery projects on Federal forest lands. The regional foresters of the Forest Service (or the designees of the regional foresters) shall select the advance recovery projects to be carried out under this section. However, the selection of an advance recovery project in a State shall be made in consultation with the State forester of that State. The Secretary shall publish a list of selected advance recovery projects (including the determinations required under section 4(e)(1)) in the Federal Register within the time period specified in subsection (c).

(b) SELECTION CRITERIA.—In selecting advance recovery projects, the regional foresters (and their designees) shall comply with the requirements of subsections (d)(2) and (e) of section 4 applicable to the selection of recovery projects under the national program. Priority shall be given to projects on those Federal forest lands—

(1) where the Regional Forester (in consultation with the appropriate State forester) has identified a significant risk of loss to human life and property or serious resource degradation or destruction due to wildfire, disease epidemic, severe insect infestation, wind, flood, or other causes; or

(2) for which thorough forest resource assessments have been completed, including Federal forest lands in the Pacific Northwest, the Interior Columbia Basin, the Sierra Nevada, the Southern Appalachian Region, and the northern forests of Maine, Vermont, New Hampshire, and New York.

(c) TIME PERIODS FOR SELECTION AND IMPLEMENTATION.—Final selection of advance recovery projects shall be completed within the 90-day period beginning on the date of the enactment of this Act, and the Secretary shall publish the list of selected advance recovery projects in the Federal Register by the end of that period. An advance recovery project shall be initiated (if the project is to be conducted by Federal employees) or awarded (if the project is to be conducted by an outside party) within 180 days after the date of the enactment of this Act.

(d) EFFECT OF FAILURE TO COMPLY WITH TIME PERIODS.—If an advance recovery project is not selected, initiated, or awarded within the time periods specified in subsection (c), the Secretary may not use amounts in the Forest Recovery and Protection Fund to carry out the project and shall promptly reimburse the Fund for any expenditures previously made from the Fund in connection with the project.

(e) REPORTING REQUIREMENTS.—Not later than the implementation date, and annually thereafter until completion of all advance recovery projects, the Secretary shall submit to Congress a report on the implementation of advance recovery projects. The report shall consist of a description of the accomplishments of each advance recovery project and incorporate the requirements of paragraphs (2) and (3) of section 4(g).

(f) RULEMAKING.—No new rulemaking is required in order for the Secretary to carry out this section.

SEC. 7. FOREST RECOVERY AND PROTECTION FUND.

(a) ESTABLISHMENT.—There is established on the books of the Treasury a fund to be known as the "Forest Recovery and Protection Fund". The Chief of the Forest Service shall be responsible for administering the Fund.

(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

(1) Amounts authorized for and appropriated to the Fund.

(2) Unobligated amounts in the roads and trails fund provided for in the fourteenth paragraph under the heading "FOREST SERVICE" of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501) as of the date of the enactment of this Act, and all amounts which would otherwise be deposited in such fund after such date.

(3) Subject to subsection (f), the Federal share of revenues generated by recovery projects undertaken pursuant to sections 4 and 6.

(4) Amounts required to be reimbursed to the Fund under subsection (d).

(c) USE OF FUND.—During the time period specified under section 8(a), amounts in the Fund shall be available to the Secretary, without further appropriation, to carry out the national program, to plan, carry out, and administer recovery projects under sections 4 and 6 (including defraying costs incurred by State foresters in the identification of advance recovery projects), and to administer the Scientific Advisory Panel.

(d) EFFECT OF FAILURE TO COMPLY WITH ANNUAL DEADLINES.—

(1) PROHIBITION ON USE OF FUND.—The Secretary may not use amounts in the Fund—

(A) to allocate monies to regions of the Forest Service during a fiscal year under subsection (c)(1) of section 4, if the deadlines specified under subsection (c)(2) or (g)(1) of such section are not met for that fiscal year; or

(B) to carry out a recovery project, if the final decision on the recovery project is not rendered within the time period specified in subsection (d)(1) of such section.

(2) FUND REIMBURSEMENT.—If the deadlines referred to in paragraph (1)(A) are not met for a particular fiscal year, the Secretary shall promptly reimburse the Fund for any expenditures previously made from the Fund in connection with the allocation of monies to regions of the Forest Service during that fiscal year. If the time periods referred to in paragraph (1)(B) are not met for a par-

ticular recovery project, the Secretary shall promptly reimburse the Fund for any expenditures previously made to carry out that recovery project.

(e) LIMITATION ON OVERHEAD EXPENSES.—

(1) OVERHEAD EXPENSES.—The Secretary shall not allocate or assign overhead expenses to the Fund or to any of the activities or programs authorized by sections 4 through 9.

(2) SCIENTIFIC ADVISORY PANEL.—The Secretary may allocate up to $1,000,000 from the Fund to finance the operation of the Scientific Advisory Panel.

(f) TREATMENT OF REVENUES AS MONEYS RECEIVED.—Revenues generated by recovery projects undertaken pursuant to sections 4 and 6 shall be considered to be money received for purposes of the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; commonly known as the Weeks Act; 16 U.S.C. 500).

(g) CONFORMING AMENDMENT.—The fourteenth paragraph under the heading "FOREST SERVICE" of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), is amended by adding at the end the following new sentence: "During the term of the Forest Recovery and Protection Fund, as established by section 7 of the Forest Recovery and Protection Act of 1998, amounts reserved under the authority of this paragraph shall be deposited into that Fund.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for the fiscal year in which this Act is enacted and each fiscal year thereafter through September 30, 2005, or September 30 of the fifth full fiscal year following the implementation date, whichever is later.

(b) DEPOSIT IN FUND.—All sums appropriated pursuant to this section shall be deposited in the Forest Recovery and Protection Fund.

(c) EFFECT ON EXISTING PROJECTS.—Any contract regarding a recovery project entered into before the end of the final fiscal year specified in subsection (a), and still in effect at the end of such fiscal year, shall remain in effect until completed pursuant to the terms of the contract.

SEC. 9. AUDIT REQUIREMENTS.

(a) ANNUAL REPORT VERIFICATION.—At the request of any committee chairman identified in section 5(c), the Comptroller General shall submit to Congress a report assessing the accuracy of an annual report prepared by the Secretary pursuant to section 4(g). The Comptroller General's report shall be completed as soon as practicable following the date of the publication by the Secretary of the annual report for which the request under this subsection was made.

(b) NATIONAL PROGRAM AUDIT.—At the request of any committee chairman identified in section 5(c), the Comptroller General shall conduct an audit of the national program at the end of the fourth full fiscal year following the implementation date.

(c) ELEMENTS OF AUDIT.—The audit under subsection (b) shall include an analysis of the following:

(1) Whether advance recovery projects, the national program, and the administration of the Forest Recovery and Protection Fund were carried out in a manner consistent with the provisions of this Act.

(2) The impact of the advance recovery projects conducted under section 6 on the development and implementation of the national program.

(3) The extent to which the recommendations of the Scientific Advisory Panel were used to develop and implement the national program.

(4) The current and projected future financial status of the Forest Recovery and Protection Fund.

(5) Any cost savings or efficiencies achieved under the national program.

(6) Any other aspect of the implementation of this Act considered appropriate by the chairman or chairmen requesting the audit.

SEC. 10. FOREST INVENTORY AND ANALYSIS.

(a) PROGRAM REQUIRED.—The Secretary shall establish a program to inventory and analyze, in a timely manner, public and private forests in the United States.

(b) ANNUAL STATE INVENTORY.—Subject to subsection (c), not later than the end of each full fiscal year beginning after the date of the enactment of this Act, the Secretary shall prepare for each State, in cooperation with the State forester for that State, an inventory of the forests in that State. For purposes of preparing the inventory for a State, the Secretary shall measure annually 20 percent of all sample plots that are included in the inventory program for that State. Upon completion of each annual inventory, the Secretary shall make available to the public a com-

pilation of all data collected from the year's measurements of sample plots and any analysis of such samples.

(c) MODIFICATIONS.—At the request of the State forester (or equivalent State officer) of a State, the Secretary may modify for that State the time interval for preparing forest inventories, the percentage of sample plots to be measured annually, or the requirements for making data available to the public required under subsection (b), except that 100 percent of the sample plots in the inventory program for that State shall be measured, appropriate analysis of such samples shall be conducted, and corresponding data shall be compiled during the time intervals described in subsection (d).

(d) 5-YEAR REPORTS.—At intervals not greater than every five full fiscal years after the date of the enactment of this Act, the Secretary shall prepare, publish, and make available to the public a report, prepared in cooperation with State foresters, that—

(1) contains a description of each State inventory of forests, incorporating all sample plot measurements conducted during the five years covered by the report;

(2) displays and analyzes on a nationwide basis the results of the State reports required by subsection (b); and

(3) contains an analysis of forest health conditions and trends over the previous two decades, with an emphasis on such conditions and trends during the period subsequent to the immediately preceding report under this subsection.

(e) NATIONAL STANDARDS AND DEFINITIONS.—To ensure uniform and consistent data collection for all public and private forest ownerships and each State, the Secretary shall develop, in consultation with State foresters and Federal land management agencies not within the jurisdiction of the Secretary, and publish national standards and definitions to be applied in inventorying and analyzing forests under this section. The standards shall include a core set of variables to be measured on all sample plots under subsection (b) and a standard set of tables to be included in the reports under subsection (d).

(f) PROTECTION FOR PRIVATE PROPERTY RIGHTS.—The Secretary shall obtain written authorization from property owners prior to collecting data from sample plots located on private property pursuant to subsections (b) and (c). Nothing in this section shall be construed to authorize the Secretary (directly or through the use of State foresters or other persons) to regulate privately held forest lands, the use of privately held forest lands, or the resources located on privately held forest lands.

(g) STRATEGIC PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a strategic plan to implement and carry out this section, including the annual updates required by subsection (b), any modifications made to pursuant to subsection (c), and the reports required by subsection (d). The strategic plan shall describe in detail the following:

(1) The financial resources required to implement and carry out this section, including the identification of any resources required in excess of the amounts provided for forest inventorying and analysis in recent appropriations Acts.

(2) The personnel necessary to implement and carry out this section, including any personnel in addition to personnel currently performing inventorying and analysis functions.

(3) The organization and procedures necessary to implement and carry out this section, including proposed coordination with Federal land management agencies and State foresters.

(4) The schedules for annual sample plot measurements in each State inventory required by subsection (b), as modified for that State under subsection (c), within the first five-year interval after the date of the enactment of this Act.

(5) The core set of variables to be measured in each sample plot under subsections (b) and (c) and the standard set of tables to be used in each State and national report under subsection (d).

(6) The process for employing, in coordination with the Department of Energy and the National Aeronautics and Space Administration, remote sensing, global positioning systems, and other advanced technologies to carry out this section, and the subsequent use of such technologies.

Amend the title so as to read:

A bill to address the destruction and degradation of important forest resources on Federal lands in the United States through a program of recovery and protection consistent with the requirements of existing public land management and environmental laws, to establish a program to inventory, monitor, and analyze public and private forests, and for other purposes.

BRIEF EXPLANATION

SECTION 1: SHORT TITLE; TABLE OF CONTENTS

SECTION 2: FINDINGS

Section 2 presents findings of the Committee based on seven separate Committee hearings and various reports and scientific assessments.

SECTION 3: DEFINITIONS

Most of the definitions in this section are straightforward in their meaning. The following, however, warrant elaboration.

Overhead expenses

The Congress has tried to determine for years what the Forest Service considers to be overhead expenses. For the purposes of this Act, overhead includes common services, indirect expenses, and direct and indirect general administration as defined by two separate Forest Service documents. Also included in the definition are any other costs of line management or program support that cannot be directly attributable to specific projects or programs. It is the intent of the Committee that this definition of overhead, as referred to in language included in section 7(e) of this Act, will prevent the use of the Forest Recovery and Protection Fund to pay for agency bureaucracy, fixed overhead, and other costs that have little or nothing to do with the specific programs and activities authorized by this Act.

Recovery area

This term means an area of National Forest System lands, identified by the Secretary that has become damaged or degraded or is at high risk of becoming damaged or degraded. The Committee intends for the identification of recovery areas to be principally a function of budget allocation. Hence, under section 4(c) of this Act, the Secretary is required to identify and prioritize recovery areas as part of the process of allocating funds from the Forest Recovery and Protection Fund.

Recovery project

Recovery projects are on-the-ground projects to improve, restore, or protect forest resources within an identified recovery area. The intent of Congress is not to be prescriptive, but rather to give agency decision makers the discretion to use recovery strategies deemed most appropriate through the normal interdisciplinary and public participation process. These strategies might include any number of activities, such as: thinning (i.e., a cultural treatment made to reduce stand density of trees primarily to improve growth, enhance forest health, or to recover potential mortality); salvage (i.e., the removal of dead trees or trees being damaged or dying due to injurious agents other than competition, to recover value that would otherwise be lost); prescribed fire (after appropriate thinning); sanitation (i.e., the removal of trees to improve stand health by stopping or reducing actual or anticipated spread of insects and disease); integrated pest management; riparian restoration; fish and wildlife

habitat improvement activities; soil stabilization and other water quality improvement, including road obliteration or rehabilitation; and revegetation, including seedling planting and protection.

The Committee acknowledges the recent confusion and controversy surrounding the definition and need for salvage. Therefore, it is the intent of the Committee that any salvage conducted in recovery areas should be fully justified and integrated, as appropriate, with other restoration strategies. Nothing in this Act authorizes the harvest of timber for any purpose other than the restoration of damaged or at-risk forests.

SECTION 4: NATIONAL PROGRAM OF FOREST RECOVERY AND PROTECTION

This section establishes a national program for the recovery and protection of damaged or degraded resources and restoring resilient forest conditions on national forest lands.

Selection of standards and criteria

In carrying out the national program, the Secretary is required first to publish scientifically-based standards and criteria to be used in the selection of recovery areas. The Scientific Advisory Panel established in section 5 recommends standards and criteria to the Secretary, however, the Secretary retains the ultimate discretion whether to adopt these recommendations or develop standards and criteria of his own. The Secretary is required to publish his standards and criteria in the Federal Register by the implementation date of the national program. The Secretary is required to include in this notice a justification of the standards and criteria selected and the reasons why any of the recommendations made by the Scientific Advisory Panel were not adopted. The Secretary may modify the standards and criteria at any time during the implementation of the national program through publication in the Federal Register.

It is the intent of the Committee that the Secretary's standards and criteria be broad in scope and general enough to adapt to the site-specific nuances of each region within the National Forest System. Standards and criteria might, by way of illustration, provide general guidance regarding forest structure, function or composition that is significantly outside the historic range of variability, the loss of wildlife habitat, or the degradation of water quality.

Decision-making role of the Secretary and local line officers

The Committee has been careful to clearly identify the decision-making roles of the Secretary and regional foresters, or their designees, in the implementation of the national program. Under this section, the principal role of the Secretary is to (1) identify the standards and criteria which will govern the allocation of amounts from the Forest Recovery and Protection Fund and (2) allocate amounts from the Fund annually to regions of the Forest Service for the purpose of conducting recovery projects. At the time monies are allocated from the Fund, the Secretary is required to identify and prioritize recovery areas in which allocated amounts will be used to conduct recovery projects. The identification and prioritization of recovery areas are a part of the fund allocation

process and are, in effect, a public statement of the Secretary's priorities relative to such allocations.

Regional foresters and their designees will, as has been historically the case, be responsible for project-level decision making, including compliance with the National Environmental Policy Act and the regulations governing the appeals process for agency decisions. It is the intent of the Committee that project-level decisions shall be made at the organizational level most appropriate for ensuring timely and efficient project planning and implementation.

Agency accountability

The Committee recognizes the growing public concern for agency accountability and the role of Congress in ensuring that taxpayer dollars are invested in ways that produce tangible, measurable results. For this reason, the Committee has included in this section language that requires a high degree of accountability by the Secretary and the Forest Service to demonstrate the results achieved using amounts allocated from the Forest Recovery and Protection Fund.

The Committee requires, for example, that the Secretary identify annually the total acres to be treated in recovery areas using amounts allocated from the Fund. The Secretary is also required to report to Congress annually on the recovery projects selected, including for each project the estimated project cost, duration, management objectives (including the expected environmental benefits) and economic benefits to local communities. Local line officers are required to ensure that the recovery projects selected in each recovery area will treat in a given fiscal year at least the total acreage in that recovery area identified by the Secretary as requiring treatment for that fiscal year. For each completed project, the Secretary is required to compare estimated and actual project costs, duration, management objectives, and economic benefits to local communities.

This performance-based reporting is consistent with both the letter and intent of the Government Performance and Results Act of 1993 (GPRA). The Committee views the reports required under this Act as a practical application of the GPRA and anticipate that these reports will become a model for GPRA-based reporting by the agency in the future.

To ensure timely agency reporting and decisions, the Committee has included deadlines in this section for agency reporting, the allocation of amounts in the Forest Recovery and Protection Fund, and recovery project selection. It is the intent of the Committee that the Secretary strictly adhere to these deadlines. To create an incentive for adherence, the Committee has added language to section 7 of this Act prohibiting use of the Forest Recovery and Protection Fund by the Secretary upon failure to meet the annual deadline for allocating amounts from the Forest Recovery and Protection Fund and submitting reports to Congress, and by regional foresters or their designees upon failure to meet the deadlines for rendering final decisions on recovery projects.

Community benefits and non-revenue generating recovery projects

It is the intent of the Committee that recovery projects authorized by this Act be carried out in an economic and cost-efficient manner. To achieve this end, the Committee has included language requiring regional foresters, in the selection of recovery projects, to consider (1) the economic benefits that recovery projects will provide to local communities, and (2) the most cost-effective design and method of implementation.

The consideration of economic benefits to local communities should be done in a manner consistent with the standards and criteria established by the Secretary. Economic benefits include, but are not limited to, payments to schools and counties, direct and indirect jobs and personal income, state and local taxes paid by individuals and companies, local investments in new facilities and equipment, and local investments in infrastructure for long-term management.

The Committee recognizes its responsibility to the taxpayer to ensure the prudent expenditure of public moneys. However, the Committee anticipates that recovery projects may include activities that generate little or no revenue. For some of these, the revenue generated will not exceed the project costs. In these cases, Congress expects the decision-makers to utilize the most cost-effective means available to undertake these recovery projects. However, the Committee wishes to emphasize that a recovery project need not be precluded simply because it does not generate revenues in excess of costs.

Exceptions to agency actions

The Committee has clearly stated that certain activities do not constitute agency actions. These include: (1) the establishment and publication in the Federal Register of standards and criteria to be used for the identification of, and the assignment of priority to, recovery areas, (2) the allocation of amounts from the Forest Recovery and Protection Fund, the identification and prioritization of recovery areas, including any corresponding publications in the Federal Register, and (3) the preparation and submission of annual reports to Congress.

The Committee notes that, historically, the publication of general agency guidelines, statements of agency priorities, the allocation of agency funds, and the submission of reports to Congress have not been interpreted to constitute agency action. The language in this section is intended to be consistent with this interpretation. It is the intent of the Committee that since analysis under the National Environmental Policy Act has already taken place for existing land and resource management plans, and recovery projects must be consistent with these plans, the appropriate level for analysis required by NEPA to implement the national program is at the project level.

Prohibited project locations

Though this Act is consistent with all environmental laws, public concern about forest management activities has prompted the Committee to explicitly preclude entry into or management of (1) any Wilderness Area and Wilderness study area, (2) any riparian area,

late successional reserve or old growth area within which the implementation of recovery projects is prohibited by the applicable land management plan, and (3) any other area in which the implementation of recovery projects is prohibited by law, a court order, or the applicable land management plan. The overriding purpose of these requirements is to ensure strict adherence to existing land and resource management plans.

Public participation

At no other time has there been greater citizen interest in and scrutiny of forest management activities. To accommodate this heightened awareness, this Act provides interested parties an opportunity to petition the Secretary to have specific National Forest System lands identified as recovery areas. Following the one-time petition deadline, petitions are subject to notice of availability by the Secretary, and a public comment period. This petition process applies only to the identification of recovery areas, and in no way supplants the public participation process required on a project basis by NEPA.

Community support

In recent years, many communities have brought together diverse interests to find reasonable and broadly-supported solutions to forest management issues. In this spirit of collaboration, regional foresters and line officers are urged to work closely with local communities to increase awareness of agency activities and develop local support for management initiatives. Furthermore, it is the Committee's intent that forest managers work in coordination and cooperation with other Federal, State and local resource agencies.

Administrative appeals

Recovery projects are subject to current administrative appeals rules, which are made applicable to the activities authorized by this Act.

SECTION 5: SCIENTIFIC ADVISORY PANEL

Section 5 establishes a Scientific Advisory Panel to provide recommendations to the Secretary on the standards and criteria required by the national program, and a monitoring plan for the national program.

Description of the Scientific Advisory Panel

The Scientific Advisory Panel provision was incorporated to provide solid scientific underpinnings for restoration activities authorized by this Act. Scientific credibility and integrity are maintained through a requirement of balanced representation of scientific disciplines. The duties of the Scientific Advisory Panel are limited to (1) recommendations on the standards and criteria for identifying recovery areas, and (2) the development of a monitoring plan for the national program.

Academic and professional standards

The 11-member panel is selected from a list prepared by the National Academy of Sciences in consultation with scientific and pro-

fessional organizations specializing in natural resources. This list prepared by the Academy must consist of scientists with expertise in natural resource science and have demonstrated this expertise through the publication of peer-reviewed scientific literature, and State foresters (or persons with similar managerial expertise) with expertise demonstrated through the publication of peer-reviewed scientific literature or other similar evidence of significant scientific or professional accomplishment.

Appointment process and time for appointment

To ensure balanced representation, the Act requires that of the 11 panel members, four are appointed by Congress, four are appointed by the National Academy of Sciences and three are appointed by the Secretary. Since it is critical that the panel begin its work as quickly as possible, timelines have been stipulated in the Act to ensure the timely appointment of the panel's members. The panel may commence its duties when eight of its 11 members have been appointed, providing an incentive for all parties to meet the timelines set forth in the Act.

Term and vacancies

The term of service for members of the Scientific Advisory Panel begins on the date of appointment and expires on the implementation date of the Act. Panel vacancies must be filled within 30 days, and in the same manner in which the original appointment was made.

Conflict of interests

It is prohibited for a person with a conflict of interest to serve as a member of the panel. Conflicts of interest are identified by the Scientific Advisory Panel.

Balanced representation of scientific disciplines

It is the Committee's objective to provide for a balanced representation of scientific disciplines. A multi-disciplinary panel will provide the greatest assurances that all forest resources are considered in the preparation of the panel's recommendations. A hydrologist, wildlife biologist, fisheries biologist, entomologist or pathologist, fire ecologist, silviculturist, economist, soil scientist and at least one State forester (or person with similar managerial expertise) must be appointed to the panel.

Duties in connection with implementation

The Scientific Advisory Panel is responsible for (1) preparing and submitting to the Secretary and Congress their recommendations on the standards and criteria for identifying and prioritizing recovery areas, and (2) preparing and submitting to the Secretary and Congress a monitoring plan for the national program. Though term of service for members of the Scientific Advisory Panel begins on their respective dates of appointment and ends on the implementation date, it is the Committee's intent that the panel complete its duties within one year of the appointment of the eighth panel member. This will provide the Secretary ample opportunity to consider the recommendations of the Scientific Advisory Panel and

allow implementation of the national program to proceed according to the timelines set forth in the Act.

Considerations

The Act requires that the Scientific Advisory Panel consult with region-specific scientists representing diverse disciplines relating to the management of forest resources; consider the most current peer-reviewed literature regarding the panel's duties; and incorporate information gathered during the implementation of the advance recovery projects. The Committee further urges the panel to draw upon the expertise of State agency specialist employed by any State foresters represented on the panel.

Allocation of Forest Service personnel

The Forest Service is required to allocate administrative support staff to the Scientific Advisory Panel to assist the panel in accomplishing its duties. It is the Committee's intent that amounts in the Forest Recovery and Protection Fund should not be allocated to underwrite such support staff.

Federal Advisory Committee Act compliance

The Scientific Advisory Panel is subject to sections 10 through 14 of the Federal Advisory Committee Act.

SECTION 6: ADVANCE RECOVERY PROJECTS

Section 6 requires that the Secretary allocate amounts and conduct advance recovery projects prior to the implementation of the national program.

Description of advance recovery projects

Recovery projects conducted under the national program will not begin prior to the implementation date of the national program, roughly 18 months to 2 years after the enactment of this Act. Section 6 authorizes advance recovery projects to allow restoration projects to commence without delay in those areas where the need for recovery is well documented or the immediate risk of serious resource damage or harm to human life and property is imminent.

Selection of advance recovery projects

For an 18-month to 2-year period beginning on the date of enactment, the Secretary is required to allocate amounts from the Forest Recovery and Protection Fund for the purpose of conducting a limited number of advance recovery projects on Federal forest lands. Advance recovery projects are selected by regional foresters (or their designees) in consultation with the State forester of the State in which the projects will be conducted.

Selection criteria

Priority is given to projects on Federal forest lands where the regional forester (or his designee) has identified significant risk of loss to human life and property or serious resource degradation or destruction due to wildfire, disease epidemic, severe insect infestation, wind, flood, or other causes; or on Federal forest lands for which thorough forest resource assessments have been completed.

Examples of such lands include Federal forest lands in the Pacific Northwest, the Interior Columbia Basin, the Sierra Nevada, the Southern Appalachian Region and the Northern Forests of Maine, Vermont, New Hampshire and New York.

Time periods for selection, implementation and completion; failure to comply with time periods

The Committee has established deadlines by which advance recovery projects shall be selected and either initiated or awarded. It is the intent of the Committee that such deadlines will facilitate expeditious restoration of degraded or at-risk forest resources while maintaining compliance with applicable environmental laws, and land and resource management plans. In the event that the agency fails to meet specified timelines, the Forest Recovery and Protection Fund will not be available for such projects. Any expenditures made from the Fund for advance recovery projects which fail to meet the specified timelines must be reimbursed to the Fund.

Reporting requirements

Consistent with the Committee's objective of increasing agency accountability, reports containing components identical to those of the national program must be submitted to Congress. Reports on advance recovery projects may be included in the reports submitted on the implementation of the national program following the implementation date.

SECTION 7: FOREST RECOVERY AND PROTECTION FUND

Section 7 establishes the Forest Recovery and Protection Fund as the principle funding mechanism for the activities authorized in this Act. The Fund has several significant features, which are outlined below.

Description of the fund

The Forest Recovery and Protection Fund is created by reallocating funds otherwise distributed to the Roads and Trails Fund. The Roads and Trails Fund comprises 10% of the amounts deposited each year in the National Forest Fund, which is a holding fund for the receipts of revenue-generating activities on National Forest System lands. These activities include timber harvest, grazing, special use permits, recreation user fees, mining and power generation.

The Roads and Trails Fund is a permanently appropriated fund established, ostensibly, to build and maintain roads and trails in the National Forest System. However, from 1982 until 1996, appropriations language required that amounts deposited in the Roads and Trails Fund be returned to the General Fund of the Treasury. Beginning in 1996, this appropriations language has been omitted, allowing the fund to accumulate and become available for expenditure. According to Forest Service estimates, approximately $28 million will be available in the fund for expenditure in fiscal year 1999 from fiscal year 1998 receipts.

Similarities to administration proposals

In this Fiscal Year 1998 Budget, President Clinton proposed the establishment of the Forest Ecosystem Restoration and Maintenance (FERM) Fund to "fund a broad range of ecosystem enhancements." (Budget of the United States, Fiscal Year 1998, Appendix, p. 251) This proposal directed that receipts from the Roads and Trails Fund be transferred in 1998 and subsequent years to the new FERM Fund. The proposal also required that revenues generated from activities conducted using FERM Fund moneys be revolved back into the FERM Fund. The FERM Fund proposal required new authority from Congress. However, legislation to that effect was never transmitted to Congress.

On February 27, 1998, Secretary of Agriculture Glickman transmitted a letter to Chairman Smith of the Committee on Agriculture to which was attached a "concept paper" outlining the Secretary's proposed Watershed and Forest Health Restoration Initiative. Like President Clinton's FERM Fund proposal, Secretary Glickman's initiative would "make all funds derived from the [Roads and Trails Fund] available for expenditure on forest health activities."

The Forest Recovery and Protection Fund is similar to both President Clinton's FERM Fund and Secretary Glickman's Watershed and Forest Health Restoration Fund in that it reallocates amounts from the Roads and Trails Fund for expenditure on a broad range of forest recovery and protection activities.

Revolving feature

Consistent with President Clinton's FERM Fund proposal, any revenues generated from activities conducted using the Forest Recovery and Protection Fund will revolve back into the Fund. The Committee agrees with President Clinton's view that the best use of revenues generated from activities conducted using the Fund is to further recover, enhance and protect damaged or degraded forest resources.

The Committee has included three provisions in this Act that address concerns raised by some that the revolving nature of the Forest Recovery and Protection Fund creates an incentive to maximize revenues generated from recovery projects by inappropriately harvesting valuable timber. First, the Fund eliminates the requirement in the Roads and Trails Fund statute that requires all moneys in the Fund to be spent in the States from which they were derived. This removes the potential incentive for local managers to increase the return of funds to their units by maximizing the revenues derived from recovery projects.

Second, the Committee has included a provision in this Act stating explicitly that recovery projects shall not be precluded simply because the cost of preparing and implementing the project is likely to exceed the revenue derived from the project. This clarifies the intent of the Committee that projects need not be revenue positive to fall within the scope of this Act.

Third, the Act requires the Secretary to identify recovery areas based upon scientific standards and criteria and provide annually to Congress a justification for the allocation of funds to each recovery area. This increases substantially the likelihood that allocations from the Fund will be premised on scientifically justifiable

need rather than other factors, such as a motivation to maximize revenues returned to the Fund.

Payments to counties

The Committee has included language in the Act requiring that revenues generated by recovery projects be subject to 25% payments to counties. This preserves the 90-year revenue-sharing relationship between the Forest Service and the communities adjacent to National Forest System lands.

Failure to comply with annual deadlines

The Committee has included language prohibiting the Secretary from allocating amounts from the Forest Recovery and Protection Fund for any fiscal year in which the Secretary fails to meet the January 15 reporting deadline required by subsection (c)(2) or subsection (g)(1) of section 4. It is the Committee's intent to ensure that allocations from the Forest Recovery and Protection Fund and the annual reports to Congress describing the results achieved from such allocations are made in a timely manner.

The Committee has also included language prohibiting the use of the Forest Recovery and Protection Fund to carry out recovery projects for which a final decision is not rendered within 120 days of the date on which the Secretary is required to make his annual allocations from the Fund. It is the Committee's intent to ensure the timeliness of final decisions on recovery projects, taking into account a reasonable amount of time that will be required to prepare appropriate environmental documentation and to solicit public comment as required by law. The Committee expects that some of the recovery projects selected and carried out pursuant to this Act will be projects for which much of the environmental analysis has been done, and for which there has been inadequate funding available for project implementation.

Restrictions on overhead

The Committee recognizes the need to maximize the availability of monies from the Forest Recovery and Protection Fund for on-the-ground activities. The Committee is also aware of criticisms regarding the use by the Forest Service of permanent appropriations for indirect expenses, direct and indirect administrative costs, and other agency overhead expenses that cannot be directly attributable to specific projects or programs.

To respond to both of these issues, the Committee has included language that prohibits the allocation of overhead expenses to the Forest Recovery and Protection Fund or to any of the programs or projects authorized in section 4 through section 9 of this Act. These programs and projects include, by way of illustration, the work of the Scientific Advisory Panel, the identification of recovery areas and the allocation of funds to regions of the Forest Service within which recovery areas are located, the selection, preparation and implementation of recovery projects, and the preparation of reports to Congress.

Termination of Secretary's authority to use amounts in the fund

It is the intent of the Committee that the Secretary's authority to use amounts in the Forest Recovery and Protection Fund to undertake the activities authorized by this Act shall terminate upon the expiration of the authorization of appropriations as provided in section 8. The Committee has, therefore, included language under subsection (c) of this section which sunsets the authority of the Secretary to carry out the national program, to plan, carry out, and administer recovery projects under sections 4 and 6 of this Act, and to administer the Scientific Advisory Panel, upon the expiration of the authorization of appropriations specified under section 8(a). Pursuant to subparagraph (g) of this section, upon the expiration of the authorization of appropriations, amounts deposited in the Forest Recovery and Protection Fund shall thereafter be deposited in the Roads and Trails Fund.

It is the intent of the Committee that the continuation of the Forest Recovery and Protection Fund, and the activities for which the allocation of amounts in the Fund are authorized by this Act, should only continue if the Secretary is able to demonstrate to the satisfaction of the Congress that such continuation is warranted. Thus, the continued use of the Fund is made contingent upon a thorough evaluation by Congress of the Secretary's performance pursuant to the authorities granted by this Act and, thereafter, an affirmative act of Congress to extend such authorities.

SECTION 8: AUTHORIZATION OF APPROPRIATIONS

Section 8 authorizes, for deposit into the Forest Recovery and Protection Fund, such funds as may be necessary to carry out the provisions of this Act for the fiscal year in which this Act is enacted and for each ensuing fiscal year through the fifth full fiscal year after the implementation date.

Authorization of appropriations and activities authorized by this act

As stated previously, the Secretary's authority to allocate moneys from the Forest Recovery and Protection Fund to undertake the activities authorized by this Act shall terminate upon the expiration of the authorization of appropriations specified in subsection (a) of this section.

Effect on existing projects

To ensure that contracts let by the Secretary pursuant to the authorities provided by this Act may be carried out to completion, the Committee has included language authorizing these contracts to continue, pursuant to their terms, beyond the date on which the authorization of appropriations expires.

SECTION 9: AUDIT REQUIREMENTS

It is the intent of the Committee to obtain an independent, third-party evaluation of the implementation of this Act prior to rendering a decision to extend the authorities provided under this Act into the future. The role of the Comptroller General is to provide that objective analysis to Congress.

The Comptroller General is authorized, at the request of any chairman of a committee of relevant jurisdiction, to undertake two specific activities under this section: (1) to verify the accuracy of the annual reports submitted to Congress by the Secretary, and (2) to conduct a comprehensive audit of the implementation of this Act at the conclusion of the fourth full fiscal year after the implementation date. The Committee anticipates that the Comptroller General will use the annual report verifications as an opportunity to analyze key information in preparation of the comprehensive audit. The Committee further anticipates that the Comptroller General will prepare the comprehensive audit expeditiously so as to provide Congress sufficient time to fully consider the audit's contents prior to determining whether to extend the authorities provided under this Act.

SECTION 10: FOREST INVENTORY AND ANALYSIS

Section 10 requires the Secretary to inventory and analyze public and private forests and their resources at least every five years as compared with the current eight to ten years. The Secretary shall also prepare a State forest inventory for each State. At least every five years, the Secretary shall prepare a report that contains a description of the State forest inventories, analyzes the results of the annual nationwide reports, and analyzes trends in forest conditions.

Strategic plan required

This section requires the U.S. Forest Service, in cooperation with the State forester or head of the forestry agency in each State, to conduct an annual inventory of each State's forests. It is the intent of the Committee that this process be carried out through the development and implementation of a strategic plan, in coordination with Federal land management agencies, State foresters, the forest industry, and other important interest groups.

The Committee expects that the Secretary, in cooperation with the State foresters and the forestry community, shall use the strategic plan to prioritize the States for purposes of collecting annual inventory data. The Committee recognizes that some States may not require an annual inventory update based on the size of the forest resource, unique conditions and circumstances, and other factors. The Committee urges the Secretary to accommodate such circumstances, when requested by the State forester, and to describe in the strategic plan the reasons for each such accommodation.

Confidentiality of Data.—The Committee recognizes that confidentiality of information gathered from private land is essential to the continued success of the Forest Inventory and Analysis program. The Committee acknowledges that the inventory information gathered by Forest Service personnel is currently aggregated at a regional and State level in order to ensure this strict confidentiality. It is the intent of the Committee that this confidentiality continue during the administration of the improved Inventory and Analysis program established under this Act.

Mission of the Program.—The Forestry Inventory and Analysis Program mission has historically been to improve the understand-

ing and management of our nation's forests by maintaining a comprehensive inventory of key data used by forest planners and land owners. These data include forest tree species type, current inventory, forest tree and vegetation growth, mortality and removals. It is the expectation of the Committee that the collection and analysis of such data will continue to be the principal focus of the improved Forest Inventory and Analysis Program. The Committee further expects that any change, expansion or shift in program emphasis will be made in close cooperation with State foresters, forest landowners and other primary constituents of the program.

Protection of Private Property Rights.—The Committee has included two provisions to ensure that the Forest Inventory and Analysis Program continues to be carried out in a manner that preserves the rights of private property owners. The first of these requires the Forest Service to obtain written authorization from property owners prior to collecting data from private land. The second emphasizes that nothing in this section shall be construed to authorize the Secretary, either directly or through another person, to regulate privately held forest lands, the use of privately held forest lands, or the resources located on privately held forest plans.

Written Authorization.—The Committee expects the Forest Service to efficiently administer the requirement to obtain written authorization prior to collecting forest inventory data on private lands under this section. Subject to the preference of the property owner, written authorization may consist of either (i) written correspondence granting authority to enter private property prepared and signed by the property owner or his designee, (ii) written correspondence requesting permission to enter private property prepared by the Forest Service and signed by the property owner or his designee, or (iii) written correspondence, prepared by the Forest Service and signed by the property owner or his designee, confirming that oral permission to enter private property was granted by the property owner. The Committee acknowledges the existence of a variety of State and local entities through which the agency can quickly and positively identify property owners and urges the agency to work cooperatively with such entities.

PURPOSE AND NEED

CURRENT SITUATION

There is a developing consensus among forest scientists and forest managers that increases in both the number and severity of wildfire, insect infestation, and disease outbreaks on Federal forest lands are occurring as a result of high tree densities, species composition, and structures that are outside the historic range of variability due, primarily, to the exclusion or suppression of fire. The estimated 40 million acres of Federal forest lands that are at high risk of catastrophic wildfire pose a significant threat of destruction to human life and property as well as important forest resources. All regions of the country are experiencing varying degrees of forest destruction or degradation.

NATIONAL EFFORT NEEDED

A comprehensive, nationwide effort is needed to restore and protect important forest resources in an organized, timely, and scientific manner. Restoration and protection strategies require active forest management tailored to region-specific needs involving a range of activities, including thinning, salvage, prescribed fire (after appropriate thinning), sanitation and other insect and disease control, riparian and other habitat improvement, soil stabilization and other water quality improvement, and seedling planting and protection. Immediate Federal action is needed to improve the areas of Federal forest lands where serious resource degradation has been thoroughly identified and assessed or where serious resource destruction or degradation by natural disturbance is imminent.

FUNDING

Adequate funding, structured to maximize the allocation of monies for on-the-ground projects, is needed to address a growing backlog of restoration needs in an efficient, cost-effective way. However, due to concerns about agency accountability, additional funding to address the backlog of recovery projects in the National Forest System must be accompanied by performance standards and accountability mechanisms that will clearly demonstrate the results achieved by any additional investment of taxpayer dollars.

BETTER INVENTORY

Frequent inventory and analysis of the status and trends in the conditions of forests and their resources are needed to identify and reverse the destruction or degradation of important forest resources in a timely and effective manner. The present average twelve to fifteen-year cycle of forest inventory and analysis to comply with existing statutory requirements is too prolonged to provide forest managers with the data necessary to make timely and effective management decisions, particularly decisions responsive to changing forest conditions.

SECTION-BY-SECTION ANALYSIS

SECTION 1: SHORT TITLE; TABLE OF CONTENTS

This Act may be cited as the "Forest Recovery and Protection Act of 1998".

SECTION 2: FINDINGS

(1) There are tradeoffs in values associated with proactive, passive, or delayed forest management. The values gained by proactive management outweigh the values gained by delayed or passive management of certain Federal forest lands.

(2) Increases in both the number and severity of wildfire, insect infestation, and disease outbreaks on Federal forest lands are occurring as a result of high tree densities, species composition, and structure that are outside the historic range of variability. These disturbances cause or contribute to significant soil erosion, deg-

radation of air and water quality, loss of watershed values, habitat loss, and damage to other forest resources.

(3) Serious destruction or degradation of important forest resources occurs in all regions of the United States. Management activities to restore and protect these resources in perpetuity are needed in each region and should be designed to address region-specific needs.

(4) According to the Chief of the United States Forest Service, between 35 and 40 million of the 191 million acres of Federal forest lands managed by the Forest Service are at an unacceptable risk of destruction by catastrophic wildfire. The condition of these forests can pose a significant threat of destruction to human life and property as well as fish and wildlife habitats, public recreation areas, timber, watersheds, and other important forest resources.

(5) Restoration and protection of important forest resources require active forest management involving a range of management activities, including thinning, salvage, prescribed fire (after appropriate thinning), sanitation and other insect and disease control, riparian and other habitat improvement, soil stabilization and other water quality improvement, and seedling planting and protection.

(6) Many units of the National Forest System have an increasing backlog of unfunded projects to restore and protect degraded forest resources. Adequate funding, structured so as to maximize the allocation of monies for on-the-ground projects, is needed to address this backlog in an efficient, cost-effective way.

(7) A comprehensive, nationwide effort is needed to restore and protect important forest resources in an organized, timely, and scientific manner. There should be immediate action to improve the areas of Federal forest lands where serious resource degradation has been thoroughly identified and assessed or where serous resource destruction or degradation by natural disturbance is imminent.

(8) Congress and the Comptroller General have identified the need to increase agency accountability for achieving measurable results at all levels of government, both in the management of fiscal resources and in carrying out statutory mandates. Additional funding to address the backlog of recovery projects in the National Forest System must, therefore, be accompanied by performance standards and accountability mechanisms that will clearly demonstrate the results achieved by any additional investment of taxpayer dollars.

(9) Frequent forest inventory and analysis of the status and trends in the conditions of forests and their resources are needed to identify and reverse the destruction or degradation of important forest resources in a timely and effective manner. The present average twelve to fifteen-year cycle of forest inventory and analysis to comply with existing statutory requirements is too prolonged to provide forest managers with the data necessary to make timely and effective management decisions, particularly decisions responsive to changing forest conditions.

SECTION 3: DEFINITIONS

(1) FEDERAL FOREST LANDS.—This term means lands within the National Forest System.

(2) FUND.—This term and "Forest Recovery and Protection Fund" mean the fund established under section 7.

(3) IMPLEMENTATION DATE.—This term means January 15, 2000, or the first day of the 19th full month following the date of the enactment of this Act, whichever is later. If the implementation date under the second option would occur within six months of the next January 15, the Secretary may designate that January 15 as the implementation date.

(4) LAND MANAGEMENT PLAN.—This term means a land and resource management plan prepared by the Forest Service pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 for Federal forest lands under the jurisdiction of the Secretary.

(5) NATIONAL PROGRAM.—This term means the National Program of Forest Recovery and Protection required by section 4.

(6) OVERHEAD EXPENSES.—This term and "overhead" mean—

(a) common services and indirect expenses, as such terms are defined by expense items 1–10 in Appendix E of the United States Forest Service Timber Cost Efficiency Study Final Report, dated April 16, 1993 (pages 125–126);

(b) direct and indirect general administration, as such terms are identified in Appendix D of the United States Forest Service Forest Management Program Annual Report, Fiscal Year 1996 (FS–614), dated December, 1997 (pages 110–111); and

(c) any other cost of line management or program support that cannot directly attributable to specific projects or programs.

(7) RECOVERY AREA.—This term means an area of Federal forest lands, identified by the Secretary under section 4(c)—

(a) that has experienced disturbances from wildfires, insect infestations, disease, wind, flood, or other causes, which have caused or contributed to significant soil erosion, degradation of water quality, loss of watershed values, habitat loss, or damage to other forest resources of the area; or

(b) in which the forest structure, function, or composition has been altered so as to increase substantially the likelihood of wildfire, insect infestation, or disease in the area and the consequent risks of damage to soils, water quality, watershed values, habitat, and other forest resources from wildfire, insect infestation, disease, wind, flood, or other causes.

(8) RECOVERY PROJECT.—This term means a project designed by the Secretary to improve, restore, or protect forest resources within an identified recovery area, including thinning, salvage, prescribed fire (after appropriate thinning), sanitation and other insect and disease control, riparian and other habitat improvement, soil stabilization and other water quality improvement, and seedling planting and protection.

(9) SCIENTIFIC ADVISORY PANEL.—This term means the advisory panel appointed under section 5.

(10) SECRETARY.—This term means the Secretary of Agriculture, acting through the Chief of the Forest Service.

SECTION 4: NATIONAL PROGRAM FOR FOREST RECOVERY AND PROTECTION

Section 4 requires the Secretary of Agriculture to—

(1) establish, with the advice of an independent panel of scientists, national standards and criteria for identifying and prioritizing forest recovery areas within the national forest system;

(2) consistent with the standards and criteria, identify and prioritize, on or before January 15th of each calendar year, recovery areas within which forest recovery projects would be appropriate and allocate moneys from the Forest Recovery and Protection Fund to the appropriate regions of the U.S. Forest Service for the purposes of conducting recovery projects in those areas;

(3) select (through the appropriate regional forester or his designees) recovery projects within the recovery areas identified by the Secretary within 120 days of the date on which the Secretary identifies recovery areas; and

(4) ensure that recovery projects (i) are consistent with all environmental laws and the applicable land management plans. (ii) both improve forest resources and provide economic benefits to local communities, but only to the extent consistent with the Secretary's standards and guidelines, and (iii) are not conducted in designated wilderness areas, roadless areas designated by Congress for possible inclusion in the wilderness preservation system, or any riparian, late successional reserve, or old growth area in which a recovery project would be prohibited by law, court order, or applicable land management plan.

The Secretary is further required to submit an annual report to Congress by January 15 of each year on the implementation of the national program that shall include, (1) justifications for the recovery areas identified; (2) the objectives and estimated costs and duration of recovery projects; (3) a comparison of the projected and actual achievements, costs and duration of completed recovery projects; (4) an accounting of the management of the Forest Recovery and Protection Fund; and (5) a description of any additional resources or authorities needed to implement the national program.

Local communities and private citizens are provided a one-time opportunity to petition the Secretary directly to designate local national forest lands, which meet the established standards and criteria established by the Secretary, as recovery areas. The Secretary is required to provide for public notice and comment on all submitted petitions.

SECTION 5: SCIENTIFIC ADVISORY PANEL

Section 5 establishes an 11 member scientific advisory panel, selected by Congress, the Secretary and the National Academy of Sciences, to advise the Secretary on the standards and criteria for identifying and prioritizing forest recovery areas and recommend a monitoring plan for the national program.

The science panel is required to consist of a balanced representation of scientific and professional disciplines including hydrology, wildlife biology, fisheries biology, entomology (or pathology), fire

ecology, silviculture, economics, soil science and managerial expertise. The panel is also required, in developing its recommendations to the Secretary, to consult with regional experts from a broad range of scientific disciplines, survey the most current scientific literature, and assess the effectiveness of advance recovery projects.

SECTION 6: ADVANCE RECOVERY PROJECTS

Section 6 requires the Secretary (through Regional Foresters in cooperation with State foresters) to immediately undertake a limited number of advance forest recovery projects prior to the implementation date of the national program. Priority is given to projects in areas—

(1) that pose a significant risk of loss to human life and property or serious resource degradation or destruction due to wildfire, disease epidemic, severe insect infestation, wind, flood, or other causes, or

(2) for which thorough scientific assessments and inventories have been completed. Annual reports to Congress, consistent in timing and content with those required under section 4, are also required.

SECTION 7: FOREST RECOVERY AND PROTECTION FUND

Section 7 establishes a fund called the Forest Recovery and Protection Fund from which the Secretary shall allocate moneys to pay for the implementation of the national program, advance recovery projects, and the scientific advisory panel. The fund is replenished annually by amounts otherwise allocated to the Roads and Trails Fund established by the Act of March 4, 1913 (16 U.S.C. 501). Such funds constitute 10% of the moneys deposited in the National Forest Fund from revenue generating activities within the national forest system.

Amounts in the fund are available to implement the national program only upon the Secretary meeting the deadlines for (1) identifying recovery areas and submitting reports to Congress and (2) rendering a final decision on recovery projects. Overhead expenses, as defined in section 3, may not be allocated to the fund or any of the activities authorized by section 4 through section 9 of this Act.

SECTION 8: AUTHORIZATION OF APPROPRIATIONS

Section 8 authorizes the appropriations of such sums as may be necessary to carry out the provisions of this Act in the fiscal year in which the Act is enacted and each subsequent fiscal year through the fifth full fiscal year following the implementation date. Contracts regarding recovery projects entered into before the date on which the authorization of appropriations expires are authorized to remain in effect beyond that date pursuant to their terms.

SECTION 9: AUDIT REQUIREMENTS

Section 9 requires the Comptroller General, at the request of the chairperson(s) of the appropriate committees of jurisdiction, to verify the accuracy of annual reports submitted by the Secretary to Congress, and, at the conclusion of the fourth full fiscal year of the

national program, to conduct a comprehensive audit of the Secretary's implementation of the national program and administration of the Forest Recovery and Protection Fund.

SECTION 10: FOREST INVENTORY AND ANALYSIS

Section 10 requires the Secretary, in conjunction with state foresters, to establish, in cooperation with state foresters, a program to inventory and analyze forest lands in the United States in a timely and efficient manner. In doing so, the Secretary shall publish annual inventory updates for each state and a comprehensive national inventory report at the end of each five year period. The Secretary must establish national standards and definitions to be applied to the collection and analysis of data obtained from the inventory of forest lands. The Secretary is also required to submit to Congress a strategic plan for carrying out the improved forest inventory and analysis program outlining all relevant schedules, resource needs and technologies to be employed to carry out the provisions of this section.

COMMITTEE CONSIDERATION

I—HEARINGS

H.R. 2515 is a product of seven Full Committee hearings on forest resource conditions in the United States, in which the Committee heard testimony from the administration, scientists, academics, lawmakers, State foresters, land managers, professional societies, labor, local elected officials, environmentalists and the forest products industry.

Hearing 1 (Management of the National Forest System in the Pacific Northwest)—Jan. 16, 1997, in Sunriver, OR

The hearing at Sunriver began a year-long inquiry into the condition of Federal forest resources throughout the country. At Sunriver, the Committee learned that, over the past 100 years, we have significantly increased our knowledge about forest ecology, management and the dynamic, ever-changing conditions of America's forests. This is especially true in areas where intensive regional assessments have been conducted.

Fire suppression, drought, and inactive management have left certain Federal forests in conditions significantly outside the range of historic variability. This has reduced the resilience of these forests and placed them at much greater risk of destruction or degradation due to larger and more severe wildfires, insect attack, wind, flood or other causes. There are trade-offs in values associated with proactive, passive or delayed forest management, but the values which will be lost without proactive management are greater than any values gained by delayed or passive management of some forest lands.

A landscape-level strategy, based on sound science, must include both harvest activities, such as the removal of dead and dying timber and thinning to reduce forest density, and non-harvest activities to restore riparian areas, enhance fish and wildlife habitat and protect water quality. In most areas, time is of the essence to capture economic value and reduce risk from catastrophic loss. Unfor-

tunately, however, a dedicated funding source is presently unavailable for many important restoration activities.

Chairman Smith, Governor Kitzhaber of Oregon, and Forest Service Chief Dombeck agreed that: (1) the highest priority is to protect and restore the health of the land; (2) active hands-on forest management is essential to restoring the health of the land; (3) a plan is needed for how management should proceed; and (4) any hope of a successful outcome on the ground hinges on good faith cooperation among local communities, the States, Congress, and the administration.

Hearing 2 (Forest Ecosystem Health in the United States)—April 9, 1997 in Washington, DC

This was a joint hearing with the Committee on Resources to hear the findings of a report entitled "Report on Forest Health of the United States by the Forest Health Science Panel" prepared by Dr. Chad Oliver of the University of Washington and a team of scientists including David L. Adams (Professor, University of Idaho), Thomas M. Bonnicksen (Professor, Texas A&M University), Jim L. Bowyer (Director, Forest Products Management Development Institute, University of Minnesota), Frederick W. Cubbage (Professor, North Carolina State Unversity), Neil Sampson (Senior Fellow, American Forests), Scott E. Schlarbaum (Professor, University of Tennessee), Ross Whaley (President, SUNY—Environmental Science and Forestry), and Harry V. Wiant (President, Society of American Foresters). The report characterized the present condition of our forests and emphasized that much of our forests in all regions consist of trees of small diameter which are overly crowded, which make them increasingly susceptible to insects, diseases, and catastrophic fires. These overly crowded forests do not provide high quality timber or habitat diversity, exacerbating many endangered species problems.

The Forest Health Science Panel also found that forest health was a value-laden term for which there was no one correct, scientific definition. According to the Forest Health Science Panel, "forest health" is a function of the forest values desired by the public and the tradeoffs inherent in the production of these values. Science can better inform the decision making process by providing information on the tradeoffs in various management approaches.

The Forest Health Science Panel further found that there are clearly irreversible consequences to delaying management decisions. These include: (1) loss of species through loss of habitat; (2) loss of watershed integrity, increase of atmospheric carbon dioxide, and danger to people and property because of the impending catastrophic wildfires; (3) loss of infrastructure of roads, labor, equipment, and timber processing facilities for any form of active management of forests; (4) an increase in exotic insect and disease damage both from resident exotics and from new ones arriving on imported wood; (5) an increased harvest of wood from elsewhere in the world, and in eastern regions of the United States, with reduced harvest of national forests; and (6) an increased use of more polluting wood substitutes, which produce more carbon dioxide and consume more fossil fuel in their production than does wood. Furthermore, forest management decisions at the local and regional

levels can have far-reaching national and international impacts. In short, the consequences of inaction far outweigh the costs of restoration.

Hearing 3 (Forest Ecosystem Health in the United States)—June 5, 1997

This hearing provided an opportunity to improve the scientific understanding of the conditions and options for management for the United States' forests by listening and learning from a group of accomplished scientists who reviewed the report of the Forest Health Science Panel. Although some scientists had suggestions for improving the report, none disagreed with the basic contents and all endorsed the report as a framework for discussing what Americans want from their forests and the tradeoffs involved in different management strategies. The Committee learned that it would be appropriate to begin applying integrated management approaches in high risk areas in each region of the country, giving priority to those areas for which comprehensive assessments have been completed. In many areas, swift action is needed to avoid irretrievable losses.

Hearing 4 (Forest Ecosystem Health in the United States (Pacific Coast and Southern Regions))—June 12, 1997

This was another hearing to review the findings of the Forest Science Panel, focusing on forest conditions in the Pacific Coast and Southern Regions. There has been significant documentation of the need for forest recovery activities, including the implementation of aggressive, active management regimes, in both of these regions. Again, the Committee was informed that it took a long time to achieve the present conditions that are outside the range of historic variability and will take a long time to correct them. Any strategy to restore and improve degraded forests should increase management flexibility, manage risk, increase funding, improve accountability, provide for monitoring, and employ a collaborative, landscape approach.

Hearing 5 (Forest Ecosystem Health in the United States (Inland West and Northeast))—June 19, 1997

This hearing was designed to focus on forest health problems in the Inland West and Northeast. The committee received testimony that highlighted the degraded conditions of fire dependent forest ecosystems in the Inland West as a result of fire exclusion, and the inability of many forests in the Northeast to meet public expectations due to expanding urbanization, public policies that discourage long-term investment and management, and other factors. Again, the idea was forwarded that the national forests should serve as an example to the public and private landowners of an integrated management approach. Chief Dombeck echoed this sentiment when he stated that "* * * restoring forest ecosystem health is not simply a forestry issue. A healthy forest is one that maintains the function, diversity, and resiliency of all its components, such as wildlife and fish habitat, riparian areas, soils, rangelands, and economic potential and will require active management." "We must use all available tools and continue our search for new ones." The

Committee was told that proactive forest management costs money but avoids even costlier loss of resources. A need was identified for more complete and timely data through the Forest Service's Forest Inventory and Analysis so that States can make more informed decisions about their resources.

Hearing 6 (Wildfire Management in the United States)—July 15, 1997

This hearing focused on the increasing risk of large, unnatural fires in many of the nation's forests as well as specific management recommendations to reduce risks and protect precious resources, ensure public and community safety, and minimize costs. The Committee was informed that fire is part of the natural cycle of the forest, however, years of fire exclusion, particularly in the Inland West, have created overstocked forests (about 40 million acres, nationally) at high risk of loss to catastrophic wildfire due to high fuel loads. Given the fuel conditions present in many parts of the country, not all unwanted wildfires can be safely or efficiently suppressed. Although 98 percent of all wildfires are suppressed during initial attack, those large fires that do escape are becoming more dangerous and costly.

The U.S. Forest Service emphasized the need for a multifaceted approach of fuels management using the whole array of tools for fuels management and fire suppression to reduce the threats of catastrophic fire over time. Although prescribed fire is one of the tools available, the Forest Service estimates that up to 90 percent of the acreage in need of restoration may require mechanical fuel treatments prior to burning to reduce the risk of catastrophic loss.

Hearing 7 (The Forest Recovery and Protection Act of 1997)—October 7, 1997

Chairman Smith explained that the purpose of this hearing and subsequent Committee action was to fine-tune and improve H.R. 2515—The Forest Recovery and Protection Act of 1997. Chairman Smith explained that H.R. 2515 is a plan for addressing deteriorating forest conditions throughout the country in a timely, organized, scientific, and environmentally responsible way. Most of the panelists were supportive of the bill and some offered suggestions for improvement. Issues of concern expressed by the panelists included the structure of the science panel, burdensome procedural requirements, the reallocation of $50 million from the amounts appropriated for fire operations, opportunities for public participation, the apparent centralized nature of the decision making process, and the use of an off-budget account that could potentially create incentives to maximize revenue at the local level. Secretary Glickman agreed with the concepts of the bill and pledged his willingness to sit down with the Chairman and work through areas of disagreement.

II—SUBCOMMITTEES

Full Committee Chairman Smith called the Subcommittee on Forestry, Resources Conservation, and Research meeting to order on November 5, 1997, for the purpose of marking up H.R. 2515, the Forest Recovery and Protection Act of 1997, a bill introduced by

Messrs. Smith of Oregon, Stenholm, Combest, Bishop, Callahan, Peterson of Pennsylvania and Mrs. Emerson.

Chairman Smith made opening comments and submitted his statement for the record. Ranking Minority Member Dooley was recognized for an opening statement of which he indicated that some Members of the Minority had significant concerns with H.R. 2515 that would need to be addressed prior to the bill's consideration before the Full Committee.

Chairman Smith recognized counsel for a brief explanation of the bill and gave Members an opportunity to make comments and ask questions to counsel.

Ms. Stabenow questioned the designation process of forest recovery areas. Discussion occurred and Chairman Smith confirmed that the Secretary of Agriculture has full discretion to designate recovery areas for such time periods as he deem appropriate.

Ms. Stabenow was then recognized to offer an amendment regarding revenues generated by certain recovery projects for the Forest Recovery and Protection Fund. Discussion occurred and Ms. Stabenow expressed her desire to work with the Chairman to find creative ways to fund the program without excessive cost. The Chairman pledged to work with Ms. Stabenow and, without objection, the amendment was withdrawn.

Mr. Dooley was then recognized who raised his concern with the composition of the scientific panel and suggested that the National Academy of Sciences propose a scientific panel, composed of required expertise, remaining as nonpolitical as possible. The Chairman indicated that he also had a personal interest in balancing the panel and would work with Mr. Dooley in Full Committee on the issue.

Mr. Dooley then moved that H.R. 2515 be reported to the Full Committee with recommendations that it do pass. By voice vote, and in the presence of a quorum, H.R. 2515 was ordered reported, without amendment, to the Full Committee.

Without objection, staff was given permission to make any necessary clerical, technical, or conforming changes as appropriate without changing the substance of the legislation and Chairman Smith adjourned the meeting subject to the call of the Chair.

III—FULL COMMITTEE

The Committee on Agriculture met, pursuant to notice, with a quorum present, on March 4, 1998, to consider H.R. 2515, the Forest Recovery and Protection Act of 1997, and other pending business.

Chairman Smith placed before the Committee an Amendment in the Nature of a Substitute to H.R. 2515 and without objection the Amendment in the Nature of a Substitute was considered as original text for purposes of amendment and would be open for amendment for any point.

Chairman Smith presented an opening statement, and recognized Ranking Minority Member Stenholm, Mr. Brown, and Ms. Stabenow who also gave brief opening comments.

Ms. Stabenow thanked the Chairman and the staff for working with her to address the issue of incentives and the off-budget

source of funding, but Ms. Stabenow indicated that she continued to have concerns over these issues.

Professional Staff was then recognized to present an overview and explanation of the bill as introduced and the Amendment in the Nature of a Substitute.

Mr. Farr was recognized to offer and explain an amendment that would modify the definition of "recovery project" and would expand the locations where recovery projects would be prohibited. Discussion occurred with the Chairman opposing to the amendment, and by a voice vote the amendment was not adopted.

Chairman Smith called for a vote on the Amendment in the Nature of a Substitute to H.R. 2515, and by a voice vote and in the presence of a quorum, H.R. 2515, as amended, was adopted.

Mr. Combest was then recognized and moved that H.R. 2515, as amended, be ordered reported favorable to the House with a recommendation that it do pass. Mr. Combest's motion was agreed to by a voice vote of the Committee.

Without objection, a unanimous consent request by Mr. Combest to authorize the Chairman to offer such motions as may be necessary in the House to go to conference with the Senate on the bill H.R. 2515 or a similar Senate bill was agreed to.

Chairman Smith asked if any Member wished to file supplemental, minority, or additional views to H.R. 2515, and Mr. Brown indicated that he would. Chairman Smith stated that other Members would be protected if they wished to file comments within three days.

Without objection, staff was given permission to make any necessary clerical, technical, or conforming changes in the bill as ordered reported.

Chairman Smith then requested by unanimous consent that the title of the bill as indicated in Substitute be amended and the meeting was adjourned subject to the call of the Chair.

REPORTING THE BILL—ROLLCALL VOTES

In compliance with clause 2(l)(2) of rule XI of the House of Representatives, H.R. 2515, as amended, was reported by voice vote with a majority quorum present. There was no request for a recorded vote.

BUDGET ACT COMPLIANCE (SECTIONS 308, 403, AND 424)

The provisions of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and sections 403 and 424 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 11, 1998.

Hon. ROBERT F. SMITH,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2515, the Forest Recovery and Protection Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2515—Forest Recovery and Protection Act of 1998

Summary: H.R. 2515 would direct the Secretary of Agriculture, acting through the Chief of the Forest Service, to implement a nationwide program to restore and protect forest resources on federal land within the National Forest System through recovery projects within identified recovery areas. CBO estimates that enacting H.R. 2515 would decrease direct spending by about $7 million over the 1999–2003 period. Because H.R. 2515 would affect direct spending, pay-as-you-go procedures would apply. In addition, we estimate that enacting the bill would result in additional discretionary outlays of about $14 million in fiscal year 1999 and about $86 million over the 1999–2003 period, assuming appropriation of the estimated amounts.

H.R. 2515 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2515 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and the environment). For purposes of this estimate, CBO assumes the bill would be enacted by the start of fiscal year 1999.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Baseline Spending Under Current Law for Forest and Rangeland Research:						
Estimated authorization level [1]	188	196	203	211	218	226
Estimated outlays	187	202	206	211	218	224
Proposed Changes:						
Estimated Authorization level	0	18	18	18	18	18
Estimated outlays	0	14	18	18	18	18
Spending Under H.R. 2515 for Forest and Rangeland Research:						
Estimated authorization level	188	214	221	229	236	244
Estimated Outlays	187	216	224	229	234	242

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
CHANGES IN DIRECT SPENDING (including Offsetting Receipts)						
Estimated budget authority	0	0	−4	−1	−1	−1
Estimated outlays	0	0	−3	−2	−1	−1

[1] The 1998 level is the amount appropriated for that year. The amounts for subsequent years are CBO baseline projections, assuming increases to match anticipated inflation.

Basis of estimate: H.R. 2515 would direct the Secretary of Agriculture to implement a nationwide program to restore and protect forest resources on federal land within the National Forest System through recovery projects. The implementation date for the nationwide program would be January 15, 2000 (or the first day of the nineteenth full month following enactment, whichever is later). The bill also would direct the Secretary to begin advance recovery projects during the 18-month period beginning on the date of enactment. The bill would require the Secretary to report to the Congress annually on the recovery project program.

H.R. 2515 would establish a Forest Recovery and Protection Fund to be available to the Secretary, without further appropriation, to carry out the recovery program until September 30, 2005 (or September 30 of the fifth full fiscal year following the implementation date, whichever is later). The bill would credit to that fund: amounts appropriated to the fund; unobligated amounts in the Roads and Trails Fund; all amounts that would otherwise be deposited to the Roads and Trails Fund after enactment; and the federal share of receipts generated by recovery projects (states would receive 25 percent of such receipts). The bill would authorize the appropriation of such sums as may be necessary to carry out its provisions.

Spending subject to appropriation

The Forest Service has identified about 150,000 sample plots for on-the-ground surveys and a much larger area for aerial surveys in public and private forests. It monitors those areas in order to assess forest conditions. Section 10 of the bill would require the Secretary to inventory and analyze 20 percent of that area each year, to report the results annually to states, and to report every five years on forest health conditions nationwide. Under current law, the Forest Service conducts this type of inventory and analysis on approximately a ten-year cycle, inventorying about 10 percent of the inventory area annually. H.R. 2515 would therefore require the Forest Service to inventory and analyze twice the area required under current law. Furthermore, the bill's requirement to inventory areas in each state every year, rather than rotating the inventory among states, would increase administrative and travel costs. CBO estimates that enacting these provisions would increase discretionary outlays by about $14 million in fiscal year 1999 and by about $18 million each year thereafter, assuming appropriation of the estimated amounts.

Direct spending (including offseting receipts)

Under current law, we estimate that about $30 million per year of timber receipts will be credited to the Roads and Trails Fund

and spent, under permanent authority, to build and maintain roads and trails in the national forest. Under H.R. 2515, those amounts would be credited to the Forest Recovery and Protection Fund each year during the 1999–2005 period and would be available for spending.

The bill also would credit to the new fund the federal share of any receipts generated by recovery projects, after payment of the 25 percent state share. CBO estimates that enacting H.R. 2515 would generate offsetting receipts from recovery projects totaling about $5 million in fiscal year 2000 and about $43 million during the 1999–2005 period. We estimate associated payments to states would be about $1 million per year in fiscal year 2000 and 2001 and about $2 million per year from 2003 to 2005. The additional receipts, net of payments to states, would be credited to the Forest Recovery and Protection Fund and spent in the following year. Because of the lag between the receipt and the spending of these funds, net outlays would decline slightly, relative to current law. CBO estimates that net outlays would fall by $7 million over the 2000–2003 period.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. They would result from changes in spending and offsetting receipts stemming from the establishment of the Forest Recovery and Protection Fund. Enacting H.R. 2515 would not affect governmental receipts. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	0	−3	−2	−1	−1	−1	0	1	0	0
Changes in receipts [1]											

[1] Not applicable.

Estimated impact on State, local, and tribal governments: H.R. 2515 contains no intergovernmental mandates as defined in UMRA and would impose no costs on State, local, or tribal governments. States generally receive 25 percent of timber receipts from national forests. Because CBO expects that this bill would result in increased timber receipts, we expect that these payments to States would also increase—by about $1 million in fiscal year 2000 and by about $10 million over the 2000–2005 period.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Victoria V. Heid; impact on State, local, and tribal governments: Marjorie Miller.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds the Constitutional author-

ity for this legislation in Article I, clause 8, section 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the Government of the United States or in any department or officer thereof.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Reform and Oversight as provided for in clause 2(l)(3)(D) of rule XI, and under clause 4(c)(2) of rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 2515, as amended.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Agriculture's oversight findings and recommendations are reflected in the body of this report.

COMMITTEE COST ESTIMATE

Pursuant to clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 403 and 424 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

Section 5 of this legislation creates a "Scientific Advisory Panel" which is subject to sections 10-14 of the Federal Advisory Committee Act (FACA) (5 U.S.C. App.). Pursuant to section 5 of FACA, the Committee on Agriculture has determined that the functions of the proposed Scientific Advisory Panel are not and can not be performed by one or more agencies, by an existing advisory committee, or by enlarging the mandate of an existing advisory committee. Furthermore, the Committee on Agriculture has determined that this legislation meets all the requirements of section 5(b)(1)-(5) of FACA.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

COMMITTEE CORRESPONDENCE

COMMITTEE ON RESOURCES,
Washington, DC, March 6, 1998.

Hon. BOB SMITH,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Committee on Agriculture has ordered favorably reported H.R. 2515, the Forest Recovery and Protection Act of 1997. This bill was referred primarily to the Committee on Agriculture and additionally to the Committee on Resources because it affects forest management on forests created from the public domain.

I have reviewed the text of the bill as reported. Because of the close working relationship between our two committees and after conferring with Chairman Chenoweth of the Subcommittee on Forests and Forest Health, I would be pleased to have the Committee on Resources discharged from further consideration of this measure. This will allow its timely consideration by the entire House of Representatives during this short session of the 105th Congress.

Of course, this letter should in no way be considered as waiving the Committee on Resources' jurisdiction over H.R. 2515 or prejudicing the Committee's claims against similar provisions in other bills. In addition, I ask that if this bill or a companion Senate measure should go to conference that the Committee on Resources be represented on that conference. Finally, I note that Chairman Chenoweth also has a complementary forest health bill before your committee, H.R. 2458, and I hope that she would enjoy a similar courtesy when her bill has moved through the Committee on Resources.

Congratulations on this important legislative initiative to benefit our Nation's forests. I look forward to voting for it on the Floor soon.

Sincerely,

DON YOUNG, *Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

ACT OF MARCH 4, 1913

CHAP. 145.—An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and fourteen.

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FOREST SERVICE.

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That hereafter, an additional ten per centum of all moneys received from the national forests during each fiscal year shall be available at the end thereof, to be expended by the Secretary of Agriculture for the construction and maintenance of roads and trails within the national forests in the States from which such proceeds are derived; but the Secretary of Agriculture may, whenever practicable, in the construction and maintenance of such roads, secure the cooperation or aid of the proper State of Territorial authorities in the furtherance of any system of highways of which such roads may be made a part; In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this Act shall be based upon the stumpage value of the timber. *During the term of the Forest Recovery and Protection Fund, as established by section 7 of the Forest Recovery and Protection Act of 1998, amounts reserved under the authority of this paragraph shall be deposited into that Fund.*

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DISSENTING VIEWS

I am strongly opposed to H.R. 2515, the "Forest Recovery and Protection Act of 1997," which I believe is an unnecessary piece of legislation, based on an extremely dubious scientific hypothesis that logging will alleviate the forest health "crisis" on our national forests. The diagnosis is faulty, as is the prescribed cure. I have four major objections to this bill.

First, the bill approaches forest health issues from a decidedly silvicentric perspective. It assumes that the best way to make forests healthy is to cut them down. There is little scientific support for the proposition that more logging will make forests healthier. One of the lessons of the Salvage Rider is that logging is not a solution to forest health problems. H.R. 2515 is premised on a pseudo-scientific forest health report prepared by foresters and silviculturalists without involvement from biologists, hydrologists, ecologists, and other scientists who could have comprised a full-spectrum team of experts to examine forest ecosystem health issues in a holistic manner.

This same fundamental flaw extends to the composition of the Scientific Advisory Panel, which will be the primary agent for making recommendations on the designation of recovery areas and the management of those areas. While I have always argued for increased scientific input into the management of our public lands, this bill will politicize the scientific input by mandating that the Chairmen of the House and Senate Agriculture and Resources Committees and the Secretary of Agriculture will choose all eleven members of the panel. Additionally, the bill specifically allows that at least one, but as many as five of the members will be State Foresters, or persons with similar "management" experience. If this is truly to be a scientific advisory panel, rather than a management panel, it should be made up entirely of natural resource scientists.

Second, H.R. 2515 gives the Secretary of Agriculture discretion to designate "recovery areas" and authorize "recovery projects" in our national forests without any limitation on the number or size of the recovery areas. The bill claims that management activities, mostly logging, thinning, and salvage, are needed to restore forest health because "between thirty-five and forty million acres of Federal forest lands . . . are at an unacceptable risk of destruction by catastrophic wildfire." Thirty-five to forty million acres represent a majority of the entire timber base on our national forests. The bill so broadly defines the criteria for designating "recovery areas" that there is hardly a forested area in our national forest system that could not quality for inclusion. Even roadless areas, which exist more or less in a "natural" state and do not need active management, could be included in "recovery areas" and slated for logging. Only those roadless areas protected under Wilderness designation or under applicable land management plans would be off limits.

Unfortunately, an amendment offered by Representative Sam Farr that would have protected all roadless areas over 1000 acres was defeated in Committee mark-up.

There are also no clearly defined limits on the ways in which these areas could be managed. The findings state that our forest problems are a result of tree density, composition, and structure, but make absolutely no mention of fire suppression or logging, and the role that those activities have historically played, and continue to play, in contributing to forest health problems. In fact, scientists with the Sierra Nevada Ecosystem Project (SNEP) concluded that logging has increased fire severity more than "any other human activity," due to increased fuel accumulation and changes in local microclimate.

Third, the funding mechanism in H.R. 2515 ensures that logging will be the focus of forest heath recovery. The bill contains several mechanisms that seek to steer "recovery projects" in the direction of cutting more and bigger trees. For the funding of recovery projects, the bill establishes a revolving fund that will rely almost entirely on revenues generated by recovery projects. The only activities that can generate revenue are commercial timber sales of healthy, green trees. The Forest Service will once again be trapped in a vicious cycle in which the only way to fund forest health improvement projects is to cut down healthy forests in the process.

The vast majority of activities most likely to be effective at thinning overdense forests—prescribed burning, and pre-commercial thinning—cost money for the government and do not make a profit. Even though selective cutting in some areas is desirable, it is not always economical. The Congressional Research Service estimated that "thinning" just 10 percent of western national forests would cost $3.5 billion. Any true remedy for dangerous fire potential would have to include: logging or burning out openings in many of the hundreds of thousands of acres of "tree farms" which, if left in place, could ignite and spread fire very fast; removing or control burning the lower elevation chaparral which acts like kindling; hand piling of natural and post-logging slash; and removal of non-commercial sized crowded thickets such as small white fir. All of these measures are expensive.

The changes that were made to the structure of the revolving fund during mark-up of this bill do not in any way address this problem. The revolving fund will still rely on revenues from commercial logging in order to administer recovery projects. If there is truly a "crisis" on our national forests, as the supporters of this bill contend, the Congress should appropriate funds specifically to address the problems. The types of reverse incentives that are present in this bill have failed in the past and have seriously biased the management of our national forests. Rather than repeating past mistakes, we should be moving in a new direction of forest management, and we should fund programs that will legitimately alleviate forest health problems.

Fourth, this legislation gives government agencies broad discretion to short-cut environmental laws and limit meaningful citizen participation in forest management decision-making. For example, it states that decisions by the Secretary to identify "recovery areas" and to allocate funds toward "recovery projects" do not constitute

"agency actions," and therefore these decisions are exempted from the National Environmental Policy Act (NEPA), administrative appeal, and judicial review. The bill requires the agencies to make final decisions regarding the identification of forest health areas and authorization of forest health projects within 120 days. This deliberate truncating of the time-frames established for public participation under the NEPA appears intended to create a de facto exclusion of both meaningful public participation and critical scientific analysis about the potential effects of the proposed projects.

Any decisions to increase the use of logging in our National Forests as a method of improving the health of our forest ecosystems should be based on a scientific consensus that it has been effective in controlling fire and that it is of benefit to the forest ecosystem. With no real scientific justification, H.R. 2515 offers up increased logging as a solution to a questionable problem. The bill gives wide discretion to the Forest Service to designate recovery areas, limits public participation and administrative appeals, and creates perverse economic incentives to cut large, profitable trees. Therefore, I strongly oppose this legislation.

GEORGE E. BROWN, Jr.

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