



Legislative Bulletin.....May 17, 2006

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

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$0

Effect on Revenue: \$0

Total Change in Mandatory Spending: Increased by \$5 million in FY06, but reduced by \$21 million over the FY07-11 period

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

**H.R. 4200 — Forest Emergency Recovery and Research Act — *as reported*
(Walden, R-OR)**

Order of Business: The bill is scheduled for consideration on Wednesday, May 17, 2006, under a structured rule ([H.RES. 816](#)).

Summary: H.R. 4200 (would make various changes in current law to permit (or require, in certain circumstances) the Agriculture Secretary and the Interior Secretary to implement recovery treatments in response to catastrophic events affecting federal lands under their jurisdiction. Highlights of the bill are as follows:

- Directs the Agriculture Secretary and Interior Secretary to submit to Congress “research protocols” for conducting and evaluating scientific information about the effectiveness and ecological impacts of catastrophic event recovery projects and emergency

- stabilization treatments following an emergency response to a burned area (to increase the “long-term benefits of management activities” and decrease the short-term impacts).
- Directs the Secretaries to enter into cooperative agreements with land-grant colleges and universities (and other higher education institutions) to form forest health partnerships to utilize their education, research, and outreach capacities to address the recovery of forested land after a catastrophic event.
 - Requires the Secretary concerned to conduct catastrophic event recovery evaluations of damaged federal lands, if the event affects 1,000 or more acres (to be commenced as soon as possible and no later than 30 days after the conclusion of the catastrophic event).
 - Directs the Secretary concerned to prepare a list of pre-approved management practices that may be immediately implemented as part of catastrophic event recovery projects or catastrophic event research projects.
 - Requires determinations of whether or not to: 1) use any pre-approved management practices that can be immediately implemented; and 2) develop and carry out a recovery or research project, or part of such a project, using the alternative arrangements authorized by this Act.
 - Directs the Secretaries to collaborate with “state and local governments, Indian tribes, land-grant colleges and universities, and interested persons” during the preparation of catastrophic event recovery evaluations and proposals, including requirements for public notices and public meetings prior to the evaluation.
 - Stipulates that a pre-approved management practice:
 - 1) may not authorize any permanent road building;
 - 2) For any timber harvesting, must be limited to trees that are already down, dead, broken, or severely root sprung; are highly probable to die within five years; or should be removed for public safety.
 - Allows for a pre-approved management practice to proceed simultaneously with consultation required under other laws (such as the National Historic Preservation Act or the Federal Water Pollution Control Act).
 - Requires the Secretary concerned, after determining to carry out a catastrophic event recovery project or research event, to issue a “concise decision document” within 90 days that states: 1) the rationale for the decision, 2) an economic analysis and justification, and 3) an analysis of the environmental effects of the project and how it can be minimized;
 - Requires: 1) administrative and judicial review in accordance with current law, 2) interim final regulations to be promulgated, and 3) solicitation of comments on the proposed use of a pre-approved management practice or catastrophic event research project.
 - Directs the Secretaries to clarify (within 180 days of enactment) agency-wide guidance regarding reforestation in response to catastrophic events.
 - Provides for assistance (which may include technical and financial cost-share assistance) to restore landscapes and communities affected by catastrophic events.
 - Provides for assistance in the preparation of a community wildfire protection plan or related plan.
 - Provides for the availability and use of pre-approved management practices and alternative arrangements on National Forest experimental forests.

Additional Information: CBO estimates that allowing the Secretaries to use expedited procedures to implement land management practices following qualified catastrophic events

would increase offsetting receipts from the sale of salvageable timber. CBO expects the proposed procedures would allow the agencies to hold such sales at least several months and possibly years sooner than under current law. According to the Forest Service and Interior, “holding those sales before the damaged timber begins to substantially deteriorate would increase the value and volume of salvageable timber, thereby increasing the amount that timber harvesters would be willing to pay for it.”

A 2005 GAO report stated that “nearly 900,000 acres of national forest need reforestation – the planting and natural regeneration of trees.”

Administration Policy: No Statement of Administrative Policy is available. However, according to a 2005 GAO report, the U.S. Forest Service agreed with the GAO’s findings and recommendations (regarding reforestation efforts, etc.).

Amendments: Four amendments have been made in order under the structured rule ([H.RES. 816](#)), which will be summarized in a separate document. An amendment in the nature of a substitute will also likely be offered.

Committee Action: H.R. 4200 was introduced on November 2, 2005, and referred to the Committee on Resources’ Subcommittee on Forests and Forest Health. The bill was marked-up at the sub-committee and committee level, and reported out by a vote of 25-13 (H. Rept. [109-451, Part I](#)). The bill was also referred to the Committee on Agriculture’s Subcommittee on Department Operations, Oversight, Nutrition and Forestry, marked-up, and was reported out by a vote of 36-3.

Cost to Taxpayers: CBO expects that enacting H.R. 4200 would increase direct spending by \$5 million in FY07, **but would reduce spending by \$21 million over the FY07-11 period** and by \$23 million over the FY07-16 period. Enacting the bill would not affect revenues.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The House Resources Committee Report (H. Rept. [109-451](#), Part I) cites constitutional authority for this legislation in Article 1, Section 8 of the Constitution (enumerated powers of Congress), but fails to cite a specific Clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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