



**Legislative Bulletin.....May 17, 2006**

**Contents:**

**H.R. 4200** — Amendments to Forest Emergency Recovery and Research Act

---

H.R. 4200, the Forest Emergency Recovery and Research Act, is scheduled to be considered on the House floor on Wednesday, May 17, 2006, subject to a structured rule ([H.RES. 816](#)). The rule makes in order four amendments. All amendments are debatable for 10 minutes. Note: summaries are based on RSC staff's review of actual amendment text. For a summary of the underlying bill, see a separate RSC document released earlier this morning.

---

**1. Rahall (D-WV).** Strikes section 103 of the bill, regarding expedited procedures and certain exceptions to compliance with the National Environmental Policy Act (NEPA). The bill currently allows agencies to use management procedures already available for emergencies, and this amendment would strike that provision, and direct the Secretary to comply with NEPA as it currently exists. This amendment was defeated in Committee.

**2. DeFazio (D-OR).** Strikes section 104 of the bill, regarding “availability and use of pre-approved management practices” and replaces it with a new section 104, which would require the Secretary to:

- 1) amend the land use or resources management plan applicable to the land to pre-plan for certain activities following a catastrophic event,
- 2) initiate plan amendments with priority to areas at greatest risk of a catastrophic event *and* with the most suitability for post-event activities, and
- 3) to conduct environmental analysis in accordance with current law (rather than the expedited procedures provided for under the underlying bill).

The amendment also requires that a resource management plan must be subject to an independent, third-party peer review, prior to the activities of the plan being adopted. Also, the amendment imposes a limitation of the application of the Act to those federal lands that 1) are designated as general forest areas available for timber production, and 2) are not otherwise reserved or managed for non-timber production values. According to the Resources Committee, this provision would “prohibit the bill’s restoration provisions from being applied in most national forests in California, the Southwest, and other regions of the country.” This amendment was defeated in Committee.

**3. Inslee (D-WA).** Adds a new section to the bill, stating that the Act shall not apply to any inventoried roadless area within the National Forest System. The bill already prohibits

construction of new permanent roads, and also requires that temporary roads must be restored as practicable upon the conclusion of the practice. Thus, the amendment restricts the use of management practices and emergency recovery procedures from certain roads and areas within the National Forest System. The Resources Committee states that this amendment would “codify a federal government rule that has already been deemed illegal by federal district courts.” This amendment was defeated in Committee.

**4. Udall (D-NM).** Adds a new section to the bill, which would require the Secretary concerned (when implementing any pre-approved management practice or catastrophic event recovery project as described in the bill) to “consider the effect of the practice of project on fire risk and forest regeneration,” and prohibits implementing the project unless the Secretary certifies that the practice or project will not increase fire-risk or decrease forest regeneration. Thus, the amendment significantly increases the hurdle the Secretary must overcome before implementing a management practice or catastrophic event recovery project. The Resources Committee states that this amendment would make meeting this legal threshold “nearly impossible for the agencies to defend in court and would likely invite increase lawsuits.” This amendment was defeated in Committee.