



H.R. 2936 – Resilient Federal Forests Act of 2017

H.R. 2936 was introduced by Congressman Bruce Westerman (R-AR) on June 20, 2017. The House Natural Resources Committee approved the legislation on June 27, 2017. The legislation would streamline federal forest management activities on U.S. Forest Service and Bureau of Land Management (BLM) forestlands. Below is a section-by-section summary of the legislation:

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

Sec. 101- Proposed Action/No-Action Alternative. Allows the Forest Service and BLM to analyze only the Proposed Action and the “No-Action” Alternative for forest management projects:

- Developed through a collaborative process or Resource Advisory Committee (RAC), or
- That occur on lands identified as suitable for timber production, designated as insect and disease treatment areas or within a Community Wildfire Protection Plan (CWPP).

Sec. 111 - Categorical Exclusion (CE) for Critical Response Actions. Authorizes a CE for insect and disease, to reduce hazardous fuel loads, protect municipal watersheds, improve and or enhance critical habitat, to increase water yield, produce timber or any combination of these purposes:

- Acreage size is limited to 10,000 acres, or 30,000 acres if project is developed through a collaborative process, RAC, or CWPP.

Sec. 112 - CE to Expedite Projects in Response to Catastrophic Events. Authorizes a CE up to 10,000 acres for salvage activities in response to catastrophic events, including wildfires.

Sec. 113 – CE to Meet Forest Plan Goals for Early Successional Forests. Authorizes a CE up to 10,000 acres to improve, enhance or create early successional forests for wildlife habitat improvement.

Sec. 114 – CE for Road Side Projects. Authorizes a CE of unlimited size to remove hazard trees and salvage timber to protect public safety, water supply or public infrastructure where forest management activities are permitted.

Sec. 115 – Authorizes CE up to 10,000 acres to Improve, Restore, or Reduce the Risk of Wildfire on Federal Forestlands.

Sec. 121 – Requires all Projects Covered by a CE be Consistent with the Applicable Forest Plan.

Sec. 122 – Streamlines Consultation under the National Historic Preservation Act.

Sec. 123 – Streamlines the Endangered Species Act Consultation Process. Allows the Forest Service and BLM to make Not Likely to Adversely Affect determinations for listed species. Establishes a 90-day deadline for projects conducted under a CE for which formal ESA consultation is required.

Sec. 124 – Declares Forest Management Activities under this Act to be Non-Discretionary Actions under the ESA.

Title II – Salvage and Reforestation in Response to Catastrophic Events

Sec. 201 – Expedited Reforestation Following Large-Scale Catastrophic Event. Requires an environmental assessment for reforestation activities to be completed within two months. 75% of the affected area is required to be reforested and limits the time available for public input and objections for projects conducted in response to a catastrophic event.

Sec. 203 – Prohibits Restraining Orders, Preliminary Injunctions, and Injunctions Pending Appeal for Projects Conducted in Response to Catastrophic Events.

Title III – Alternative Dispute Resolution for Forest Management Litigation

Sec. 301. Establishes a Pilot Program for Utilizing Arbitration for Resolving Legal Challenges to Projects Carried Out Under this Act.

Sec. 311 - No Awards for Attorney’s Fees or Expenses May be Paid to Any Plaintiff Challenging a Forest Management Activity. This provision eliminates Equal Access to Justice Act attorney fees to activist plaintiffs.

Sec. 312 – Establishes Time Limits for Preliminary Injunctions and Requires Courts to Weigh the Risks of Not Taking Action.

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

Makes various changes to Secure Rural Schools Act and Resource Advisory Committees (RACs), including allowing the designation of RACs that retain revenue from forest management projects to fund future forest management projects.

Title V – Stewardship End Results Contracting Amendments. Modifies contracting and cancellation ceiling restrictions, requires that 25% of stewardship revenues be shared with local counties.

Title VI – Additional Funding Sources for Forest Management Activities. Amends Stewardship Contracting Authority and Collaborative Forest Landscape Restoration Act revenues to be expended on project planning activities. Creates “State-Supported Forest Management Fund” to allow revenues generated from state investments in federal forest management activities to be expended on future projects.

Title VII – Tribal Forestry Participation and Protection. Strengthens the existing Tribal Forest Protection Act and allows tribes to request to manage adjacent federal forestlands with streamlined authorities available on Indian lands. Requires that timber be offered for sale under the new authorities be through competitive bid.

Title VIII – Expediting Interagency Consultation. Clarifies that the development, maintenance, and revision of a forest plan are not subject to NEPA. Addresses the *Cottonwood* decision by directing that consultation under the Endangered Species Act is not required for existing forest and resource management plans due to the listing of a species, designation of critical habitat, or availability of new information. Affirms that ESA consultation must still take place at the project-level.

Title IX – Miscellaneous Forest Management Provisions.

Sec. 901 – Amends the Farm Bill insect and disease CE to include Fire Regime IV (Lodgepole Pine).

Sec. 902 – Requires the Development of Alternative Consultation Agreement Regulations. The Secretary of the Interior (USFWS) and the Secretary of Commerce (NOAA Fisheries) would be required to authorize alternate consultation agreement under the ESA if an agency action is found not likely to adversely affect a listed species or critical habitat.

Sec. 903 – Revision of Extraordinary Circumstances Regulations. Directs the Secretary to initiate rulemaking to limit some of the “Extraordinary Circumstances” that prevent the use of CEs.

Sec. 904 – Restrictions on Forest Service Road Decommissioning in Fire-Prone Areas.

Sec. 905 – Prohibits the Application of the 21” “Eastside Screens” Requirements on National Forests east of the Cascades in Region Six.

Sec. 906 – Allows Forest Service to Utilize Site-Specific Forest Plan Amendments. Addresses the Snow Basin decision.

Sec. 907 – Requires the Secretary to Use Knutson-Vandenberg (K-V) Authorities for Certain Timber Projects and Prohibits the Forest Service from Deducting Agency Overhead Costs from K-V Revenues.

Sec. 908 – Prohibits the Application of the Survey and Manage Guidelines of the Northwest Forest Plan on National Forests in Washington, Oregon, and California.

Sec. 909 – Amends 2014 Farm Bill Good Neighbor Authority to Allow Road Reconstruction and Repair Activities.

Sec. 910 – Amends the Fair Labor Standards Act to Allow 16 and 17 Year Olds to Participate in a Family-run Mechanized Logging Operation.

Sec. 911 – Technical Corrections to the O&C Act of 1937. Affirms the original 500 mmbf minimum timber volume requirement of the O&C Act by requiring the BLM to annually offer for sale *the greater of* 500 mmbf or the sustained yield.

Sec. 912 – Western Oregon Rights of Way Access. Directs the BLM to grant and record right-of-way easements, rather than the permits currently provided to adjacent private landowners.

Sec. 913 – Western Oregon BLM Public Domain Lands. Directs that the approximately 500,000 acres of Public Domain Lands in Western Oregon be managed under the requirements of the O&C Act.

Title X – Major Disaster for Wildfire on Federal Land. Allows the President to declare major wildfires a natural disaster under the Stafford Act, making emergency funding available for suppression and prevents “borrowing” funds from non-suppression accounts.