



November 21, 2003

Highlights of the Conference Report to Accompany H.R. 1904, the Healthy Forest Restoration Act of 2003

H. Rept. 108-386 was filed on November 20, 2003.

NOTEWORTHY

- The **Conference Report** adopts the **Senate-passed bill** with few modifications. Important modifications include an expansion of the definition of wildland-urban interface areas, and an expansion of the ability to protect against insect and disease infestation.
- Some 190 million acres of Federal forest land are at unnaturally high risk of catastrophic wildfires and large-scale insect and disease outbreaks because of unhealthy forest conditions – namely, the buildup of forest fuels that has taken place over the last century. In the last five years, over 24 million acres have burned, an amount which is more than twice the 10-year average. Catastrophic wildfires damage air quality, water quality, and wildlife habitat.
- Efforts to restore forest health and prevent catastrophic wildfires have been frustrated by private-sector groups demanding detailed documentation, making administrative appeals of proposed forest treatment projects, and filing lawsuits and injunctions.
- The **Conference Report's** most important provisions to accelerate the restoration of forest health are those reforming the administrative and judicial review processes.
- At the time of publication, the House had not yet voted on the **Conference Report**.

Highlights

Title I - Hazardous Fuels Reduction on Federal Land

Authorized Hazardous Fuel Reduction Projects:

The **Senate-passed bill** authorized hazardous fuels reduction projects on federal lands, limited to: wildland-urban interface areas; areas located in proximity to a municipal watershed or water supply system with significant risk that a wildfire would adversely affect water quality or the system; areas where “windthrow,” “blowdown,” ice storm damage, or the existence of insects or disease poses a significant threat to ecosystems, or forest or rangeland resources; and to areas that contain threatened or endangered species habitat.

The **Senate-passed bill** also required projects to be planned and conducted in a manner consistent with land and resource management plans; limited the acreage available for authorized projects to 20 million acres; and prohibited projects on certain Federal lands. The bill also provided protection for old growth forests and, as appropriate, maximized the retention of large trees on projects outside of old growth stands.

The **Conference Report** adopts the Senate provisions, with some modifications. It modifies the definition of wildland-urban interface to include an area within 1 ½ miles of the boundary of an at-risk community rather than, instead of a one-half-mile area. It clarifies the provision relating to insect and disease infestation to include hazardous fuel reduction projects on Federal lands where the presence of an epidemic on immediately adjacent lands poses an imminent risk. It also adds a clause to the large tree retention provision to clarify that such provision is not intended to prevent achieving the purpose of reducing wildfire risks.

Prioritization:

The **Senate-passed bill** directed the Secretary to give priority to projects that provide protection for at-risk communities or watersheds or that implement community wildfire protection plans. It exempted Federal involvement in such plans from the Federal Advisory Committee Act and Nation Environmental Policy Act. It required that at least 50 percent of the funds allocated for hazardous fuel reduction projects must be used in the wildland-urban interface. However, the Secretary may allocate the proportion of funds differently as appropriate.

The **Conference Report** adopts the Senate provisions, but directs the relevant agencies to use of existing administrative authority to define wildland-urban interface for purposes of authorized hazardous fuel reduction projects for which a decision notice is issued within one year of date of

enactment of this Act and give priority in allocating funding to communities that have adopted wildfire protection plans.

Environmental Analysis:

The **Senate-passed bill** directed the Secretary to prepare an environmental assessment (EA) or an environmental impact statement (EIS) for any authorized hazardous fuel reduction project. The EA or EIA shall describe an action, a no-action alternative, and an additional action alternative.

The **Conference Report** adopts the Senate provision with an amendment that provides for special expedited environmental analysis processes for hazardous fuels reduction projects within the wildland-urban interface.

Special Administrative Review Process:

The **Senate-passed bill** directed the Secretary of Agriculture to establish a pre-decisional administrative review process that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on National Forest Service land and limits civil action to persons that have exhausted the administrative review process and to issues raised in an administrative review process.

The **Conference Report** adopts the Senate provisions and adds a section from the House-passed bill that limits the administrative process to persons who have submitted specific and substantive written comments during the preparation stage of the project.

Judicial Review in United States District Courts:

The **Senate-passed bill** directed the court reviewing the project to balance the short- and long-term effects on the ecosystem of undertaking a hazardous fuel reduction project against the short- and long-term effects of not undertaking a hazardous fuel reduction project.

The **Conference Report** adopts the Senate provision.

Authorization of Appropriations:

The **Conference Report** authorizes \$760 million for each fiscal year to conduct hazardous fuel reduction activities.

Remaining Titles (Titles II through VI)

The **Conference Report** substantially adopts the remaining Titles (Biomass, Watershed Forestry Assistance, Insect Infestations, Healthy Forests Reserve Program, and Miscellaneous

Provisions) of the **Senate-passed bill**. For Title V – Healthy Forest Reserve Program, the **Conference Report** also adopts a provision from the **House-passed bill** with respect to the methods of enrollment in the program to allow for 10-year cost share agreements, and 30-year to 99-year easements.

The **Conference Report** also strikes several amendments to the **Senate-passed bill** including: Public Land Corps; Rural Community Forestry Enterprise Program; Firefighters Medical Monitoring Act; Disaster Air Quality Monitoring Act; Highlands Region Conservation; Emergency Treatment and Reduction of Nonnative Invasive Plants; USDA National Agroforestry Center; Upland Hardwoods Research Center; Emergency Fuel Reduction Grants; Eastern Nevada Landscape Coalition; Sense of Congress Regarding Enhanced Community Fire Protection; Best-Value Contracting; Suburban and Community Forestry and Open Space Program; Forest Legacy Program; Wildland Firefighter Safety; Green Mountain National Forest Boundary Adjustment; Puerto Rico Karst Conservation; Enforcement of Animal Fighting Prohibitions Under the Animal Welfare Act; and Changes in Fines for Violation of Public Land Regulations During a Fire Ban.

