

Union Calendar No. 52

108TH CONGRESS
1ST SESSION

H. R. 1904

[Report No. 108-96, Parts I and II]

To improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2003

Mr. MCINNIS (for himself, Mr. WALDEN of Oregon, Mr. POMBO, Mr. GOODLATTE, Mr. AKIN, Mr. ALEXANDER, Mr. BALLENGER, Mr. BARTON of Texas, Mr. BEAUPREZ, Mr. BERRY, Mr. BISHOP of Utah, Mr. BLUNT, Mr. BOEHNER, Mr. BOOZMAN, Mr. BRADY of Texas, Mr. BURGESS, Mr. CALVERT, Mr. CANNON, Mr. COLE, Mr. CRAMER, Mrs. CUBIN, Mr. DAVIS of Alabama, Mr. DOOLITTLE, Mr. DOOLEY of California, Mr. DUNCAN, Mrs. EMERSON, Mr. EVERETT, Mr. FLAKE, Mr. GALLEGLY, Mr. GIBBONS, Mr. GILCHREST, Mr. GINGREY, Mr. GRAVES, Mr. GREEN of Wisconsin, Mr. GUTKNECHT, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HUNTER, Mr. ISSA, Mr. JANKLOW, Mr. JOHN, Mr. JONES of North Carolina, Mr. KOLBE, Mr. LAHOOD, Mr. LEWIS of California, Mr. LINDER, Mr. MCKEON, Mr. GARY G. MILLER of California, Mr. MORAN of Kansas, Mrs. MUSGRAVE, Mr. NETHERCUTT, Mr. NORWOOD, Mr. NUNES, Mr. OBERSTAR, Mr. OTTER, Mr. OSBORNE, Mr. OSE, Mr. PEARCE, Mr. PETERSON of Minnesota, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. RADANOVICH, Mr. REHBERG, Mr. RENZI, Mr. ROGERS of Alabama, Mr. ROSS, Mr. RYUN of Kansas, Mr. SANDLIN, Mr. SESSIONS, Mr. SHADEGG, Mr. SHIMKUS, Mr. SHERWOOD, Mr. SIMPSON, Mr. SMITH of Michigan, Mr. SOUDER, Mr. STENHOLM, Mr. STUPAK, Mr. TANCREDO, Mr. TAYLOR of North Carolina, Mr. TERRY, Mr. THOMAS, Mr. THOMPSON of Mississippi, Mr. THORNBERRY, Mr. TIAHRT, Mr. TURNER of Texas, Mr. TAUZIN, Mr. VITTER, Mr. WICKER, Mrs. WILSON of New

Mexico, Mr. WILSON of South Carolina, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 9, 2003

Reported from the Committee on Agriculture

MAY 9, 2003

Referral to the Committee on Resources extended for a period ending not later than May 9, 2003

MAY 9, 2003

Committee on Resources discharged

MAY 9, 2003

Referred to the Committee on the Judiciary for a period ending not later than May 16, 2003 for consideration of such provisions of the bill as fall within the jurisdiction of the committee pursuant to clause 1(k), rule X

MAY 16, 2003

Additional sponsors: Mr. SCOTT of Georgia, Mr. BONNER, Mr. GOODE, Mr. BISHOP of Georgia, Mr. CANTOR, Ms. PRYCE of Ohio, Mr. BROWN of South Carolina, Mr. BARRETT of South Carolina, Mr. BURNS, Mr. SCOTT of Virginia, Mr. SWEENEY, Mrs. JO ANN DAVIS of Virginia, Mr. SAM JOHNSON of Texas, Mr. PITTS, Ms. GRANGER, Mr. KLINE, Mr. CHOCOLA, Mrs. MILLER of Michigan, Mr. WAMP, Mr. TIBERI, Mr. FOLEY, Mrs. MYRICK, Mr. LEWIS of Kentucky, Mr. HOUGHTON, Mr. ROHRABACHER, Mr. SHUSTER, Mr. CUNNINGHAM, Mrs. BLACKBURN, Mr. REYNOLDS, Mr. KNOLLENBERG, Mr. CARTER, Mr. COX, Mr. HOEKSTRA, Mr. CAMP, Mr. PUTNAM, Mr. BURTON of Indiana, Mr. COBLE, Mr. COLLINS, Mr. CULBERSON, Mr. DEAL of Georgia, Mr. FORBES, Mr. ROGERS of Kentucky, Mr. PAUL, and Mr. WHITFIELD

MAY 16, 2003

Reported from the Committee on the Judiciary, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

A BILL

To improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest

System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Healthy Forests Restoration Act of 2003”.

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

Sec. 1. Short title; table of contents.
 Sec. 2. Purpose.

TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LANDS

Sec. 101. Definitions.
 Sec. 102. Authorized hazardous fuels reduction projects.
 Sec. 103. Prioritization for communities and watersheds.
 Sec. 104. Environmental analysis.
 Sec. 105. Special Forest Service administrative review process.
 Sec. 106. Special requirements regarding judicial review of authorized hazardous fuels reduction projects.
 Sec. 107. Standard for injunctive relief for agency action to restore fire-adapted forest or rangeland ecosystems.
 Sec. 108. Rules of construction.

TITLE II—BIOMASS

Sec. 201. Findings.
 Sec. 202. Definitions.
 Sec. 203. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and petroleum-based product substitutes.
 Sec. 204. Reporting requirement.

TITLE III—WATERSHED FORESTRY ASSISTANCE

Sec. 301. Findings and purpose.
 Sec. 302. Establishment of watershed forestry assistance program.

TITLE IV—INSECT INFESTATIONS

- Sec. 401. Definitions, findings, and purpose.
 Sec. 402. Accelerated information gathering regarding bark beetles, including Southern pine beetles, hemlock woolly adelgid, emerald ash borers, red oak borers, and white oak borers.
 Sec. 403. Applied silvicultural assessments.
 Sec. 404. Relation to other laws.
 Sec. 405. Authorization of appropriations.

TITLE V—HEALTHY FORESTS RESERVE PROGRAM

- Sec. 501. Establishment of healthy forests reserve program.
 Sec. 502. Eligibility and enrollment of lands in program.
 Sec. 503. Conservation plans.
 Sec. 504. Financial assistance.
 Sec. 505. Technical assistance.
 Sec. 506. Safe harbor.
 Sec. 507. Authorization of appropriations.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Forest stands inventory and monitoring program to improve detection of and response to environmental threats.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is—

3 (1) to reduce the risks of damage to commu-
 4 nities, municipal water supplies, and some at-risk
 5 Federal lands from catastrophic wildfires;

6 (2) to authorize grant programs to improve the
 7 commercial value of forest biomass for electric en-
 8 ergy, useful heat, transportation fuels, petroleum-
 9 based product substitutes and other commercial pur-
 10 poses;

11 (3) to enhance efforts to protect watersheds and
 12 address threats to forest and rangeland health, in-
 13 cluding catastrophic wildfire, across the landscape;

1 (4) to promote systematic information gath-
2 ering to address the impact of insect infestations on
3 forest and rangeland health;

4 (5) to improve the capacity to detect insect and
5 disease infestations at an early stage, particularly
6 with respect to hardwood forests; and

7 (6) to protect, restore, and enhance degraded
8 forest ecosystem types in order to promote the recov-
9 ery of threatened and endangered species as well as
10 improve biological diversity and enhance carbon se-
11 questration.

12 **TITLE I—HAZARDOUS FUELS REDUCTION**
13 **ON FEDERAL LANDS**

14 **SEC. 101. DEFINITIONS.**

15 In this title:

16 (1) **AUTHORIZED HAZARDOUS FUELS REDUC-**
17 **TION PROJECT.**—The term “authorized hazardous
18 fuels reduction project” means a hazardous fuels re-
19 duction project described in subsection (a) of section
20 102, subject to the remainder of such section, that
21 is planned and conducted using the process author-
22 ized by section 104.

23 (2) **CONDITION CLASS 2.**—The term “condition
24 class 2”, with respect to an area of Federal lands,
25 refers to the condition class description developed by

1 the Forest Service Rocky Mountain Research Sta-
2 tion in the general technical report entitled “Devel-
3 opment of Coarse-Scale Spatial Data for Wildland
4 Fire and Fuel Management” (RMRS–87), dated
5 April 2000, under which—

6 (A) fire regimes on the lands have been
7 moderately altered from their historical range;

8 (B) there exists a moderate risk of losing
9 key ecosystem components from fire;

10 (C) fire frequencies have departed (either
11 increased or decreased) from historical fre-
12 quencies by one or more return interval, which
13 results in moderate changes to fire size, fre-
14 quency, intensity, severity, or landscape pat-
15 terns; and

16 (D) vegetation attributes have been mod-
17 erately altered from their historical range.

18 (3) **CONDITION CLASS 3.**—The term “condition
19 class 3”, with respect to an area of Federal lands,
20 refers to the condition class description developed by
21 the Rocky Mountain Research Station in the general
22 technical report referred to in paragraph (2), under
23 which—

24 (A) fire regimes on the lands have been
25 significantly altered from their historical range

1 (B) there exists a high risk of losing key
2 ecosystem components from fire;

3 (C) fire frequencies have departed from
4 historical frequencies by multiple return inter-
5 vals, which results in dramatic changes to fire
6 size, frequency, intensity, severity, or landscape
7 patterns; and

8 (D) vegetation attributes have been signifi-
9 cantly altered from their historical range.

10 (4) DAY.—The term “day” means a calendar
11 day, except that, if a deadline imposed by this title
12 would expire on a nonbusiness day, the deadline will
13 be extended to the end of the next business day.

14 (5) DECISION DOCUMENT.—The term “decision
15 document” means a decision notice or a record of
16 decision, as those terms are used in applicable regu-
17 lations of the Council on Environmental Quality and
18 the Forest Service Handbook.

19 (6) FEDERAL LANDS.—The term “Federal
20 lands” means—

21 (A) National Forest System lands; and

22 (B) public lands administered by the Sec-
23 retary of the Interior, acting through the Bu-
24 reau of Land Management.

1 (7) HAZARDOUS FUELS REDUCTION
2 PROJECT.—The term “hazardous fuels reduction
3 project” refers to the measures and methods de-
4 scribed in the definition of “appropriate tools” con-
5 tained in the glossary of the Implementation Plan.

6 (8) IMPLEMENTATION PLAN.—The term “Im-
7 plementation Plan” means the Implementation Plan
8 for the 10-year Comprehensive Strategy for a Col-
9 laborative Approach for Reducing Wildland Fire
10 Risks to Communities and the Environment, dated
11 May 2002, which was developed pursuant to the con-
12 ference report for the Department of the Interior
13 and Related Agencies Appropriations Act, 2001
14 (House Report 106–646).

15 (9) INTERFACE COMMUNITY AND INTERMIX
16 COMMUNITY.—The terms “interface community”
17 and “intermix community” have the meanings given
18 those terms on page 753 of volume 66 of the Fed-
19 eral Register, as published on January 4, 2001.

20 (10) MUNICIPAL WATER SUPPLY SYSTEM.—The
21 term “municipal water supply system” means the
22 reservoirs, canals, ditches, flumes, laterals, pipes,
23 pipelines, or other surface facilities and systems con-
24 structed or installed for the impoundment, storage,

1 transportation, or distribution of drinking water for
2 a community.

3 (11) SECRETARY CONCERNED.—The term
4 “Secretary concerned” means the Secretary of Agri-
5 culture with respect to National Forest System lands
6 and the Secretary of the Interior with respect to
7 public lands administered by the Bureau of Land
8 Management. Any reference in this title to the “Sec-
9 retary concerned”, the Secretary of Agriculture”, or
10 the “Secretary of the Interior” includes the designee
11 of the Secretary concerned.

12 (12) THREATENED AND ENDANGERED SPECIES
13 HABITAT.—The term “threatened and endangered
14 species habitat” means Federal lands identified in
15 the listing decision or critical habitat designation as
16 habitat for a threatened species or an endangered
17 species under the Endangered Species Act of 1973
18 (16 U.S.C. 1531 et seq.).

19 **SEC. 102. AUTHORIZED HAZARDOUS FUELS REDUCTION**
20 **PROJECTS.**

21 (a) AUTHORIZED PROJECTS.—Subject to the remain-
22 der of this section, the Secretary concerned may utilize
23 the process authorized by section 104 to plan and conduct
24 hazardous fuels reduction projects on any of the following
25 Federal lands:

1 (1) Federal lands located in an interface com-
2 munity or intermix community.

3 (2) Federal lands located in such proximity to
4 an interface community or intermix community that
5 there is a significant risk that the spread of a fire
6 disturbance event from those lands would threaten
7 human life and property in the interface community
8 or intermix community.

9 (3) Condition class 3 or condition class 2 Fed-
10 eral lands located in such proximity to a municipal
11 water supply system or a stream feeding a municipal
12 water supply system that a significant risk exists
13 that a fire disturbance event would have adverse ef-
14 fects on the water quality of the municipal water
15 supply, including the risk to water quality posed by
16 erosion following such a fire disturbance event.

17 (4) Condition class 3 or condition class 2 Fed-
18 eral lands identified by the Secretary concerned as
19 an area where windthrow or blowdown, or the exist-
20 ence or threat of disease or insect infestation, pose
21 a significant threat to forest or rangeland health or
22 adjacent private lands.

23 (5) Federal lands not covered by paragraph (1),
24 (2), (3), or (4) that contain threatened and endan-
25 gered species habitat, but only if—

1 (A) natural fire regimes on such lands are
2 identified as being important for, or wildfire is
3 identified as a threat to, an endangered species,
4 a threatened species, or its habitat in a species
5 recovery plan prepared under section 4 of the
6 Endangered Species Act of 1973 (16 U.S.C.
7 1533) or in a decision document under such
8 section determining a species to be an endan-
9 gered species or a threatened species or desig-
10 nating critical habitat;

11 (B) the project will provide enhanced pro-
12 tection from catastrophic wildfire for the spe-
13 cies or its habitat; and

14 (C) the Secretary complies with any appli-
15 cable guidelines specified in the species recovery
16 plan prepared under the Endangered Species
17 Act of 1973 (16 U.S.C. 1531 et seq.).

18 (b) RELATION TO AGENCY PLANS.—An authorized
19 hazardous fuels reduction project shall be planned and
20 conducted in a manner consistent with the land and re-
21 source management plan or land use plan applicable to
22 the Federal lands covered by the project.

23 (c) ACREAGE LIMITATION.—Not more than a total
24 of 20,000,000 acres of Federal lands may be included in
25 authorized hazardous fuels reduction projects.

1 (d) TREE REMOVAL LIMITATION.—The Secretary
2 concerned, in the sole discretion of the Secretary con-
3 cerned, shall plan and conduct an authorized hazardous
4 fuels reduction project so as to maintain species composi-
5 tion, size class distribution, and density of trees, including
6 old and large trees appropriate for each ecosystem type
7 covered by the project, consistent with the purposes of this
8 title.

9 (e) EXCLUSION OF CERTAIN FEDERAL LANDS.—The
10 Secretary concerned may not plan or conduct an author-
11 ized hazardous fuels reduction project that would occur
12 on any of the following Federal lands:

13 (1) A component of the National Wilderness
14 Preservation System.

15 (2) Federal lands where, by Act of Congress or
16 Presidential proclamation, the removal of vegetation
17 is prohibited or restricted.

18 (3) Wilderness Study Areas.

19 (f) PROTECTION OF ROADLESS AREAS.—The Sec-
20 retary of Agriculture shall not construct any new perma-
21 nent road in any Inventoried Roadless Area as part of any
22 authorized hazardous fuels reduction project.

1 **SEC. 103. PRIORITIZATION FOR COMMUNITIES AND WATER-**
2 **SHEDS.**

3 As provided for in the Implementation Plan, the Sec-
4 retary concerned shall give priority to authorized haz-
5 ardous fuel reduction projects that provide for the protec-
6 tion of communities and watersheds.

7 **SEC. 104. ENVIRONMENTAL ANALYSIS.**

8 (a) IN GENERAL.—Except as otherwise provided in
9 this title, the Secretary concerned shall plan and conduct
10 authorized hazardous fuels reduction projects in accord-
11 ance with the National Environmental Policy Act of 1969
12 (42 U.S.C. 4331 et seq.) and any other applicable laws.

13 (b) DISCRETIONARY AUTHORITY TO ELIMINATE AL-
14 TERNATIVES.—In the case of an authorized hazardous
15 fuels reduction project, the Secretary concerned is not re-
16 quired to study, develop, or describe any alternative to the
17 proposed agency action in the environmental assessment
18 or environmental impact statement prepared for the pro-
19 posed agency action pursuant to section 102(2) of the Na-
20 tional Environmental Policy Act of 1969 (42 U.S.C.
21 4332(2)).

22 (c) PUBLIC NOTICE AND MEETING.—

23 (1) PUBLIC NOTICE.—The Secretary concerned
24 shall provide notice of each authorized hazardous
25 fuels reduction project in accordance with applicable
26 regulations and administrative guidelines.

1 (2) PUBLIC MEETING.—During the planning
2 stage of each authorized hazardous fuels reduction
3 project, the Secretary concerned shall conduct a
4 public meeting at an appropriate location proximate
5 to the administrative unit of the Federal lands in
6 which the authorized hazardous fuels reduction
7 project will be conducted. The Secretary concerned
8 shall provide advance notice of the date and time of
9 the meeting.

10 (d) PUBLIC COLLABORATION.—In order to encourage
11 meaningful public participation in the identification and
12 development of authorized hazardous fuels reduction
13 projects, the Secretary concerned shall facilitate collabora-
14 tion among governments and interested persons during
15 the formulation of each authorized fuels reduction project
16 in a manner consistent with the Implementation Plan.

17 (e) ENVIRONMENTAL ANALYSIS AND PUBLIC COM-
18 MENT.—In accordance with section 102(2) of the National
19 Environmental Policy Act of 1969 (42 U.S.C. 4332(2))
20 and the applicable regulations and administrative guide-
21 lines in effect on the date of the enactment of this Act,
22 the Secretary concerned shall provide an opportunity for
23 public input during the preparation of any environmental
24 assessment or environmental impact statement for pro-

1 posed agency action for an authorized hazardous fuels re-
2 duction project.

3 (f) DECISION DOCUMENT.—The Secretary concerned
4 shall sign a decision document for each authorized haz-
5 ardous fuels reduction project and provide notice of the
6 decision document.

7 (g) PROJECT MONITORING.—As provided for in the
8 Implementation Plan, the Secretary concerned shall mon-
9 itor the implementation of authorized hazardous fuels re-
10 duction projects.

11 **SEC. 105. SPECIAL FOREST SERVICE ADMINISTRATIVE RE-**
12 **VIEW PROCESS.**

13 (a) DEVELOPMENT OF ADMINISTRATIVE PROCESS.—
14 Not later than 90 days after the date of the enactment
15 of this Act, the Secretary of Agriculture shall issue final
16 regulations to establish an administrative process that will
17 serve as the sole means by which a person described in
18 subsection (c) can seek administrative redress regarding
19 an authorized hazardous fuels reduction project.

20 (b) ELIGIBLE PERSONS.—To be eligible to partici-
21 pate in the administrative process developed pursuant to
22 subsection (a) regarding an authorized hazardous fuels re-
23 duction project, a person must have submitted specific and
24 substantive written comments during the preparation
25 stage of that authorized hazardous fuels reduction project.

1 (c) RELATION TO APPEALS REFORM ACT.—Section
2 322 of the Department of the Interior and Related Agen-
3 cies Appropriations Act, 1993 (Public Law 102–381; 16
4 U.S.C. 1612 note), does not apply to an authorized haz-
5 ardous fuels reduction project.

6 **SEC. 106. SPECIAL REQUIREMENTS REGARDING JUDICIAL**
7 **REVIEW OF AUTHORIZED HAZARDOUS FUELS**
8 **REDUCTION PROJECTS.**

9 (a) FILING DEADLINE.—

10 (1) TIME LIMIT ESTABLISHED FOR FILING.—

11 Notwithstanding any other provision of law, to be
12 timely, an action in a court of the United States
13 challenging an authorized hazardous fuels reduction
14 project shall be filed in the court before the end of
15 the 15-day period beginning on the date on which
16 the Secretary concerned publishes, in the local paper
17 of record, notice of the final agency action regarding
18 the authorized hazardous fuels reduction project.
19 This time limitation supersedes any notice of intent
20 to file suit requirement or filing deadline otherwise
21 applicable to a challenge under any provision of law.

22 (2) WAIVER PROHIBITED.—The Secretary con-
23 cerned may not agree to, and a district court may
24 not grant, a waiver of the requirements of this sub-
25 section.

1 (b) DURATION OF PRELIMINARY INJUNCTION.—

2 (1) DURATION; EXTENSION.—Any preliminary
3 injunction granted regarding an authorized haz-
4 ardous fuels reduction project shall be limited to 45
5 days. A court may renew the preliminary injunction,
6 taking into consideration the goal expressed in sub-
7 section (c) for the expeditious resolution of cases re-
8 garding authorized hazardous fuels reduction
9 projects.

10 (2) SUBMISSION OF INFORMATION.—As part of
11 a request to renew a preliminary injunction granted
12 regarding an authorized hazardous fuels reduction
13 project, the parties shall present the court with an
14 update on any changes that may have occurred dur-
15 ing the period of the injunction to the forest or
16 rangeland conditions that the authorized hazardous
17 fuels reduction project is intended to address.

18 (3) CONGRESSIONAL NOTIFICATION.—In the
19 event of the renewal of a preliminary injunction re-
20 garding an authorized hazardous fuels reduction
21 project, the Secretary concerned shall submit notice
22 of the renewal to the Committee on Resources and
23 the Committee on Agriculture of the House of Rep-
24 resentatives and the Committee on Energy and Nat-

1 ural Resources and the Committee on Agriculture,
2 Nutrition, and Forestry of the Senate.

3 (c) **EXPEDITIOUS COMPLETION OF JUDICIAL RE-**
4 **VIEW.**—Congress intends and encourages any court in
5 which is filed a lawsuit or appeal of a lawsuit concerning
6 an authorized hazardous fuels reduction project to expe-
7 dite, to the maximum extent practicable, the proceedings
8 in such lawsuit or appeal with the goal of rendering a final
9 determination on jurisdiction, and if jurisdiction exists, a
10 final determination on the merits, within 100 days from
11 the date the complaint or appeal is filed.

12 **SEC. 107. STANDARD FOR INJUNCTIVE RELIEF FOR AGEN-**
13 **CY ACTION TO RESTORE FIRE-ADAPTED FOR-**
14 **EST OR RANGELAND ECOSYSTEMS.**

15 If an action brought against the Secretary concerned
16 under section 703 of title 5, United States Code, involves
17 an agency action on Federal lands in which the Secretary
18 concerned found that the agency action is necessary to re-
19 store a fire-adapted forest or rangeland ecosystem, includ-
20 ing an authorized hazardous fuels reduction project, the
21 court reviewing the agency action, in considering a request
22 for a prohibitory or mandatory injunction against the
23 agency action, shall—

24 (1) consider the public interest in avoiding long-
25 term harm to the ecosystem; and

1 (2) give deference to any agency finding, based
2 upon information in the administrative record, that
3 the balance of harm and the public interest in avoid-
4 ing the short-term effects of the agency action is
5 outweighed by the public interest in avoiding long-
6 term harm to the ecosystem.

7 **SEC. 108. RULES OF CONSTRUCTION.**

8 (a) **RELATION TO OTHER AUTHORITY.**—Nothing in
9 this title shall be construed to affect, or otherwise bias,
10 the use by the Secretary concerned of other statutory or
11 administrative authorities to plan or conduct a hazardous
12 fuels reduction project on Federal lands, including Federal
13 lands identified in section 102(e), that is not planned or
14 conducted using the process authorized by section 104.

15 (b) **RELATION TO LEGAL ACTION.**—Nothing in this
16 title shall be construed to prejudice or otherwise affect the
17 consideration or disposition of any legal action concerning
18 the Roadless Area Conservation Rule, part 294 of title 36,
19 Code of Federal Regulations, as amended in the final rule
20 and record of decision published in the Federal Register
21 on January 12, 2001 (66 Fed. Reg. 3244).

22 **TITLE II—BIOMASS**

23 **SEC. 201. FINDINGS.**

24 Congress finds the following:

1 (1) Thousands of communities in the United
2 States, many located near Federal lands, are at risk
3 to wildfire. Approximately 190,000,000 acres of land
4 managed by the Secretary of Agriculture and the
5 Secretary of the Interior are at risk of catastrophic
6 fire in the near future. The accumulation of heavy
7 forest and rangeland fuel loads continues to increase
8 as a result of disease, insect infestations, and
9 drought, further raising the risk of fire each year.

10 (2) In addition, more than 70,000,000 acres
11 across all land ownerships are at risk to higher than
12 normal mortality over the next 15 years from insect
13 infestation and disease. High levels of tree mortality
14 from insects and disease result in increased fire risk,
15 loss of old growth, degraded watershed conditions,
16 and changes in species diversity and productivity, as
17 well as diminished fish and wildlife habitat and de-
18 creased timber values.

19 (3) Preventive treatments such as removing fuel
20 loading, ladder fuels, and hazard trees, planting
21 proper species mix and restoring and protecting
22 early successional habitat, and other specific restora-
23 tion treatments designed to reduce the susceptibility
24 of forest and rangeland to insect outbreaks, disease,
25 and catastrophic fire present the greatest oppor-

1 tunity for long-term forest and rangeland health by
2 creating a mosaic of species-mix and age distribu-
3 tion. Such prevention treatments are widely acknowl-
4 edged to be more successful and cost effective than
5 suppression treatments in the case of insects, dis-
6 ease, and fire.

7 (4) The by-products of preventive treatment
8 (wood, brush, thinnings, chips, slash, and other haz-
9 ardous fuels) removed from forest and rangelands
10 represent an abundant supply of biomass for bio-
11 mass-to-energy facilities and raw material for busi-
12 ness. There are currently few markets for the ex-
13 traordinary volumes of by-products being generated
14 as a result of the necessary large-scale preventive
15 treatment activities.

16 (5) The United States should—

17 (A) promote economic and entrepreneurial
18 opportunities in using by-products removed
19 through preventive treatment activities related
20 to hazardous fuels reduction, disease, and insect
21 infestation; and

22 (B) develop and expand markets for tradi-
23 tionally underused wood and biomass as an out-
24 let for by-products of preventive treatment ac-
25 tivities.

1 **SEC. 202. DEFINITIONS.**

2 In this title:

3 (1) **BIOMASS.**—The term “biomass” means
4 trees and woody plants, including limbs, tops, nee-
5 dles, and other woody parts, and by-products of pre-
6 ventive treatment, such as wood, brush, thinnings,
7 chips, and slash, that are removed—

8 (A) to reduce hazardous fuels; or

9 (B) to reduce the risk of or to contain dis-
10 ease or insect infestation.

11 (2) **INDIAN TRIBE.**—The term “Indian tribe”
12 has the meaning given the term in section 4(e) of
13 the Indian Self-Determination and Education Assist-
14 ance Act (25 U.S.C. 450b(e)).

15 (3) **PERSON.**—The term “person” includes—

16 (A) an individual;

17 (B) a community (as determined by the
18 Secretary concerned);

19 (C) an Indian tribe;

20 (D) a small business, micro-business, or a
21 corporation that is incorporated in the United
22 States; and

23 (E) a nonprofit organization.

24 (4) **PREFERRED COMMUNITY.**—The term “pre-
25 ferred community” means—

1 (A) any town, township, municipality, or
2 other similar unit of local government (as deter-
3 mined by the Secretary concerned) that—

4 (i) has a population of not more than
5 50,000 individuals; and

6 (ii) the Secretary concerned, in the
7 sole discretion of the Secretary concerned,
8 determines contains or is located near
9 land, the condition of which is at signifi-
10 cant risk of catastrophic wildfire, disease,
11 or insect infestation or which suffers from
12 disease or insect infestation; or

13 (B) any county that—

14 (i) is not contained within a metro-
15 politan statistical area; and

16 (ii) the Secretary concerned, in the
17 sole discretion of the Secretary concerned,
18 determines contains or is located near
19 land, the condition of which is at signifi-
20 cant risk of catastrophic wildfire, disease,
21 or insect infestation or which suffers from
22 disease or insect infestation.

23 (5) SECRETARY CONCERNED.—The term “Sec-
24 retary concerned” means—

1 (A) the Secretary of Agriculture with re-
2 spect to National Forest System lands; and

3 (B) the Secretary of the Interior with re-
4 spect to Federal lands under the jurisdiction of
5 the Secretary of the Interior and Indian lands.

6 **SEC. 203. GRANTS TO IMPROVE THE COMMERCIAL VALUE**
7 **OF FOREST BIOMASS FOR ELECTRIC ENERGY,**
8 **USEFUL HEAT, TRANSPORTATION FUELS,**
9 **AND PETROLEUM-BASED PRODUCT SUB-**
10 **STITUTES.**

11 (a) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

12 (1) IN GENERAL.—The Secretary concerned
13 may make grants to any person that owns or oper-
14 ates a facility that uses biomass as a raw material
15 to produce electric energy, sensible heat, transpor-
16 tation fuels, or substitutes for petroleum-based prod-
17 ucts to offset the costs incurred to purchase biomass
18 for use by such facility.

19 (2) GRANT AMOUNTS.—A grant under this sub-
20 section may not exceed \$20 per green ton of biomass
21 delivered.

22 (3) MONITORING OF GRANT RECIPIENT ACTIVI-
23 TIES.—As a condition of a grant under this sub-
24 section, the grant recipient shall keep such records
25 as the Secretary concerned may require to fully and

1 correctly disclose the use of the grant funds and all
2 transactions involved in the purchase of biomass.
3 Upon notice by a representative of the Secretary
4 concerned, the grant recipient shall afford the rep-
5 resentative reasonable access to the facility that pur-
6 chases or uses biomass and an opportunity to exam-
7 ine the inventory and records of the facility.

8 (b) VALUE ADDED GRANT PROGRAM.—

9 (1) IN GENERAL.—The Secretary concerned
10 may make grants to persons to offset the cost of
11 projects to add value to biomass. In making such
12 grants, the Secretary concerned shall give preference
13 to persons in preferred communities.

14 (2) SELECTION.—The Secretary concerned shall
15 select a grant recipient under paragraph (1) after
16 giving consideration to the anticipated public bene-
17 fits of the project, opportunities for the creation or
18 expansion of small businesses and micro-businesses,
19 and the potential for new job creation.

20 (3) GRANT AMOUNT.—A grant under this sub-
21 section may not exceed \$100,000.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated \$25,000,000 for each of the
24 fiscal years 2004 through 2008 to carry out this section.

1 **SEC. 204. REPORTING REQUIREMENT.**

2 (a) REPORT REQUIRED.—Not later than October 1,
3 2010, the Secretary of Agriculture, in consultation with
4 the Secretary of the Interior, shall submit to the Com-
5 mittee on Resources and the Committee on Agriculture of
6 the House of Representatives and the Committee on En-
7 ergy and Natural Resources and the Committee on Agri-
8 culture, Nutrition, and Forestry of the Senate a report
9 describing the results of the grant programs authorized
10 by section 203.

11 (b) CONTENTS OF REPORT.—The report shall include
12 the following:

13 (1) An identification of the size, type, and the
14 use of biomass by persons that receive grants under
15 section 203.

16 (2) The distance between the land from which
17 the biomass was removed and the facility that used
18 the biomass.

19 (3) The economic impacts, particularly new job
20 creation, resulting from the grants to and operation
21 of the eligible operations.

22 **TITLE III—WATERSHED**
23 **FORESTRY ASSISTANCE**

24 **SEC. 301. FINDINGS AND PURPOSE.**

25 (a) FINDINGS.—Congress finds the following:

1 (1) There has been a dramatic shift in public
2 attitudes and perceptions about forest management,
3 particularly in the understanding and practice of
4 sustainable forest management.

5 (2) It is commonly recognized that the proper
6 stewardship of forest lands is essential to sustaining
7 and restoring the health of watersheds.

8 (3) Forests can provide essential ecological
9 services in filtering pollutants, buffering important
10 rivers and estuaries, and minimizing flooding, which
11 makes its restoration worthy of special focus.

12 (4) Strengthened education, technical assist-
13 ance, and financial assistance to nonindustrial pri-
14 vate forest landowners and communities, relating to
15 the protection of watershed health, is needed to real-
16 ize the expectations of the general public.

17 (b) PURPOSE.—The purpose of this title is to—

18 (1) improve landowner and public under-
19 standing of the connection between forest manage-
20 ment and watershed health;

21 (2) encourage landowners to maintain tree
22 cover on their property and to utilize tree plantings
23 and vegetative treatments as creative solutions to
24 watershed problems associated with varying land
25 uses;

1 (3) enhance and complement forest manage-
2 ment and buffer utilization for watersheds, with an
3 emphasis on urban watersheds;

4 (4) establish new partnerships and collaborative
5 watershed approaches to forest management, stew-
6 ardship, and conservation;

7 (5) provide technical and financial assistance to
8 States to deliver a coordinated program that en-
9 hances State forestry best-management practices
10 programs, as well as conserves and improves for-
11 ested lands and potentially forested lands through
12 technical, financial, and educational assistance to
13 qualifying individuals and entities; and

14 (6) maximize the proper management and con-
15 servation of wetland forests and to assist in their
16 restoration as necessary.

17 **SEC. 302. ESTABLISHMENT OF WATERSHED FORESTRY AS-**
18 **SISTANCE PROGRAM.**

19 The Cooperative Forestry Assistance Act of 1978 is
20 amended by inserting after section 5 the following new
21 section:

22 **“SEC. 6. WATERSHED FORESTRY ASSISTANCE.**

23 “(a) GENERAL AUTHORITY AND PURPOSE.—The
24 Secretary, acting through the Forest Service, may provide
25 technical, financial, and related assistance to State for-

1 esters and equivalent State officials for the purpose of ex-
2 panding State forest stewardship capacities and activities
3 through State forestry best-management practices and
4 other means at the State level to address watershed issues
5 on non-Federal forested lands and potentially forested
6 lands.

7 “(b) TECHNICAL ASSISTANCE TO PROTECT WATER
8 QUALITY.—

9 “(1) IN GENERAL.—The Secretary, in coopera-
10 tion with State foresters or equivalent State officials,
11 shall engage interested members of the public, in-
12 cluding nonprofit organizations and local watershed
13 councils, to develop a program of technical assist-
14 ance to protect water quality, as described in para-
15 graph (2).

16 “(2) PURPOSE OF PROGRAM.—The program
17 under this subsection shall be designed—

18 “(A) to build and strengthen watershed
19 partnerships that focus on forested landscapes
20 at the local, State, and regional levels;

21 “(B) to provide State forestry best-man-
22 agement practices and water quality technical
23 assistance directly to nonindustrial private for-
24 est landowners;

1 “(C) to provide technical guidance to land
2 managers and policy makers for water quality
3 protection through forest management;

4 “(D) to complement State and local efforts
5 to protect water quality and provide enhanced
6 opportunities for consultation and cooperation
7 among Federal and State agencies charged with
8 responsibility for water and watershed manage-
9 ment; and

10 “(E) to provide enhanced forest resource
11 data and support for improved implementation
12 and monitoring of State forestry best-manage-
13 ment practices.

14 “(3) IMPLEMENTATION.—The program of tech-
15 nical assistance shall be implemented by State for-
16 esters or equivalent State officials.

17 “(c) WATERSHED FORESTRY COST-SHARE PRO-
18 GRAM.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish a watershed forestry cost-share program to be
21 administered by the Forest Service and implemented
22 by State foresters or equivalent State officials.
23 Funds or other support provided under such pro-
24 gram shall be made available for State forestry best-

1 management practices programs and watershed for-
2 estry projects.

3 “(2) WATERSHED FORESTRY PROJECTS.—The
4 State forester or equivalent State official of a State,
5 in coordination with the State Forest Stewardship
6 Coordinating Committee established under section
7 19(b) for that State, shall annually make awards to
8 communities, nonprofit groups, and nonindustrial
9 private forest landowners under the program for wa-
10 tershed forestry projects described in paragraph (3).

11 “(3) PROJECT ELEMENTS AND OBJECTIVES.—A
12 watershed forestry project shall accomplish critical
13 forest stewardship, watershed protection, and res-
14 toration needs within a State by demonstrating the
15 value of trees and forests to watershed health and
16 condition through—

17 “(A) the use of trees as solutions to water
18 quality problems in urban and rural areas;

19 “(B) community-based planning, involve-
20 ment, and action through State, local and non-
21 profit partnerships;

22 “(C) application of and dissemination of
23 monitoring information on forestry best-man-
24 agement practices relating to watershed for-
25 estry;

1 “(D) watershed-scale forest management
2 activities and conservation planning; and

3 “(E) the restoration of wetland (as defined
4 by the States) and stream-side forests and the
5 establishment of riparian vegetative buffers.

6 “(4) COST-SHARING.—Funds provided under
7 this subsection for a watershed forestry project may
8 not exceed 75 percent of the cost of the project.
9 Other Federal funding sources may be used to cover
10 a portion of the remaining project costs, but the
11 total Federal share of the costs may not exceed 90
12 percent. The non-Federal share of the costs of a
13 project may be in the form of cash, services, or other
14 in-kind contributions.

15 “(5) PRIORITIZATION.—The State Forest Stew-
16 ardship Coordinating Committee for a State shall
17 prioritize watersheds in that State to target water-
18 shed forestry projects funded under this subsection.

19 “(6) WATERSHED FORESTER.—Financial and
20 technical assistance shall be made available to the
21 State Forester or equivalent State official to create
22 a State best-management practice forester to lead
23 statewide programs and coordinate small watershed-
24 level projects.

25 “(d) DISTRIBUTION.—

1 “(1) IN GENERAL.—The Secretary shall devote
2 at least 75 percent of the funds appropriated for a
3 fiscal year pursuant to the authorization of appro-
4 priations in subsection (e) to the cost-share program
5 under subsection (c) and the remainder to the task
6 of delivering technical assistance, education, and
7 planning on the ground through the State Forester
8 or equivalent State official.

9 “(2) SPECIAL CONSIDERATIONS.—Distribution
10 of these funds by the Secretary among the States
11 shall be made only after giving appropriate consider-
12 ation to—

13 “(A) the acres of nonindustrial private
14 forestland and highly erodible land in each
15 State;

16 “(B) each State’s efforts to conserve for-
17 ests;

18 “(C) the acres of forests in each State that
19 have been lost or degraded or where forests can
20 play a role in restoring watersheds; and

21 “(D) the number of nonindustrial private
22 forest landowners in each State.

23 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated to carry out this section

1 \$15,000,000 for each of the fiscal years 2004 through
2 2008.”.

3 **TITLE IV—INSECT** 4 **INFESTATIONS**

5 **SEC. 401. DEFINITIONS, FINDINGS, AND PURPOSE.**

6 (a) DEFINITIONS.—In this title:

7 (1) APPLIED SILVICULTURAL ASSESSMENT.—

8 The term “applied silvicultural assessment” means
9 any vegetative or other treatment, for the purposes
10 described in section 402, including timber harvest,
11 thinning, prescribed burning, and pruning, as single
12 treatment or any combination of these treatments.

13 (2) FEDERAL LANDS.—The term “Federal
14 lands” means—

15 (A) National Forest System lands; and

16 (B) public lands administered by the Sec-
17 retary of the Interior, acting through the Bu-
18 reau of Land Management.

19 (3) SECRETARY CONCERNED.—The term “Sec-
20 retary concerned” means—

21 (A) the Secretary of Agriculture, acting
22 through the Forest Service, with respect to Na-
23 tional Forest System lands; and

24 (B) the Secretary of the Interior, acting
25 through appropriate offices of the United States

1 Geological Survey, with respect to federally
2 owned land administered by the Secretary of
3 the Interior.

4 (4) 1890 INSTITUTIONS.—The term “1890 In-
5 stitution” means a college or university eligible to
6 receive funds under the Act of August 30, 1890 (7
7 U.S.C. 321 et seq.), including Tuskegee University.

8 (b) FINDINGS.—Congress finds the following:

9 (1) High levels of tree mortality due to insect
10 infestation result in—

11 (A) increased fire risk;

12 (B) loss of old growth;

13 (C) loss of threatened and endangered spe-
14 cies;

15 (D) loss of species diversity;

16 (E) degraded watershed conditions;

17 (F) increased potential for damage from
18 other agents of disturbance, including exotic,
19 invasive species; and

20 (G) decreased timber values.

21 (2) Bark beetles destroy hundreds of thousands
22 of acres of trees each year. In the West, over
23 21,000,000 acres are at high risk of bark beetle in-
24 festation and in the South over 57,000,000 acres are
25 at risk across all land ownerships. Severe drought

1 conditions in many areas of the South and West will
2 increase risk of bark beetle infestations.

3 (3) The hemlock woolly adelgid is destroying
4 streamside forests throughout the mid-Atlantic and
5 Appalachian region, threatening water quality and
6 sensitive aquatic species, and posing a potential
7 threat to valuable commercial timber lands in North-
8 ern New England.

9 (4) The emerald ash borer is a nonnative,
10 invasive pest that has quickly become a major threat
11 to hardwood forests as a emerald ash borer infesta-
12 tion is almost always fatal to the affected trees. This
13 pest threatens to destroy over 692,000,000 ash trees
14 in forests in Michigan and Ohio alone, and between
15 five and ten percent of urban street trees in the
16 Upper Midwest.

17 (5) Epidemic populations of Southern pine bee-
18 tle are ravaging forests in Alabama, Arkansas, Flor-
19 ida, Georgia, Kentucky, Mississippi, North Carolina,
20 South Carolina, Tennessee, and Virginia. In 2001,
21 Florida and Kentucky experienced 146 percent and
22 111 percent increases, respectively, in beetle popu-
23 lations.

24 (6) These epidemic outbreaks of Southern pine
25 beetle have forced private landowners to harvest

1 dead and dying trees, in both rural areas and in-
2 creasingly urbanized settings.

3 (7) According to the Forest Service, recent out-
4 breaks of the red oak borer in Arkansas have been
5 unprecedented, with almost 800,000 acres infested
6 at population levels never seen before.

7 (8) Much of the damage from the red oak borer
8 has taken place in National forests, and the Federal
9 response has been inadequate to protect forest eco-
10 systems and other ecological and economic resources.

11 (9) Previous silvicultural assessments, while
12 useful and informative, have been limited in scale
13 and scope of application, and there has not been suf-
14 ficient resources available to adequately test a full
15 array of individual and combined applied silvicult-
16 tural assessments.

17 (10) Only through the rigorous funding, devel-
18 opment, and assessment of potential applied silvicult-
19 tural assessments over specific time frames across
20 an array of environmental and climatic conditions
21 can the most innovative and cost effective manage-
22 ment applications be determined that will help re-
23 duce the susceptibility of forest ecosystems to attack
24 by forest pests.

1 (11) Funding and implementation of an initia-
2 tive to combat forest pest infestations should not
3 come at the expense of supporting other programs
4 and initiatives of the Secretary concerned.

5 (c) PURPOSE.—It is the purpose of this title—

6 (1) to require the Secretary concerned to de-
7 velop an accelerated basic and applied assessment
8 program to combat infestations by bark beetles, in-
9 cluding Southern pine beetles, hemlock woolly
10 adelgids, emerald ash borers, red oak borers, and
11 white oak borers;

12 (2) to enlist the assistance of universities and
13 forestry schools, including Land Grant Colleges and
14 Universities and 1890 Institutions, to carry out the
15 program; and

16 (3) to carry out applied silvicultural assess-
17 ments.

18 **SEC. 402. ACCELERATED INFORMATION GATHERING RE-**
19 **GARDING BARK BEETLES, INCLUDING**
20 **SOUTHERN PINE BEETLES, HEMLOCK WOOL-**
21 **LY ADELGIDS, EMERALD ASH BORERS, RED**
22 **OAK BORERS, AND WHITE OAK BORERS.**

23 (a) INFORMATION GATHERING.—The Secretary con-
24 cerned shall establish, acting through the Forest Service

1 and United States Geological Survey, as appropriate, an
2 accelerated program—

3 (1) to plan, conduct, and promote comprehen-
4 sive and systematic information gathering on bark
5 beetles, including Southern pine beetles, hemlock
6 woolly adelgids, emerald ash borers, red oak borers,
7 and white oak borers, including an evaluation of—

8 (A) infestation prevention and control
9 methods;

10 (B) effects of infestations on forest eco-
11 systems;

12 (C) restoration of the forest ecosystem ef-
13 forts;

14 (D) utilization options regarding infested
15 trees; and

16 (E) models to predict the occurrence, dis-
17 tribution, and impact of outbreaks of bark bee-
18 tles, including Southern pine beetles, hemlock
19 woolly adelgids, emerald ash borers, red oak
20 borers, and white oak borers;

21 (2) to assist land managers in the development
22 of treatments and strategies to improve forest health
23 and reduce the susceptibility of forest ecosystems to
24 severe infestations of bark beetles, including South-
25 ern pine beetles, hemlock woolly adelgids, emerald

1 ash borers, red oak borers, and white oak borers on
2 Federal lands and State and private lands; and
3 (3) to disseminate the results of such informa-
4 tion gathering, treatments, and strategies.

5 (b) COOPERATION AND ASSISTANCE.—The Secretary
6 concerned shall establish and carry out the program in co-
7 operation with scientists from universities and forestry
8 schools, State agencies, and private and industrial land
9 owners. The Secretary concerned shall designate univer-
10 sities and forestry schools, including Land Grant Colleges
11 and Universities and 1890 Institutions, to assist in car-
12 rying out the program.

13 **SEC. 403. APPLIED SILVICULTURAL ASSESSMENTS.**

14 (a) ASSESSMENT EFFORTS.—For information gath-
15 ering purposes, the Secretary concerned may conduct ap-
16 plied silvicultural assessments on Federal lands that the
17 Secretary concerned determines, in the sole discretion of
18 the Secretary concerned, is at risk of infestation by, or
19 is infested with, bark beetles, including Southern pine bee-
20 tles, hemlock woolly adelgids, emerald ash borers, red oak
21 borers, and white oak borers. Any applied silvicultural as-
22 sessments carried out under this section shall be con-
23 ducted on not more than 1,000 acres per assessment.

24 (b) LIMITATIONS.—

1 (1) EXCLUSION OF CERTAIN AREAS.—Sub-
2 section (a) does not apply to—

3 (A) a component of the National Wilder-
4 ness Preservation System;

5 (B) Federal lands where, by Act of Con-
6 gress or Presidential proclamation, the removal
7 of vegetation is restricted or prohibited; or

8 (C) congressionally designated wilderness
9 study areas.

10 (2) CERTAIN TREATMENT PROHIBITED.—Sub-
11 section (a) does not authorize the application of in-
12 secticides in municipal watersheds and associated ri-
13 parian areas.

14 (3) ACREAGE LIMITATION.—Applied silvicol-
15 tural assessments may be implemented on not more
16 than 250,000 acres using the authorities provided by
17 this title.

18 (c) PUBLIC NOTICE AND COMMENT.—

19 (1) PUBLIC NOTICE.—The Secretary concerned
20 shall provide notice of each applied silvicultural as-
21 sessment proposed to be carried out under this sec-
22 tion in accordance with applicable regulations and
23 administrative guidelines.

24 (2) PUBLIC COMMENT.—During the planning
25 stage of each applied silvicultural assessment pro-

1 posed to be carried out under this section, the Sec-
2 retary concerned shall provide an opportunity for
3 public input.

4 (d) CATEGORICAL EXCLUSION.—Applied silvicultural
5 assessments carried out under this section are deemed to
6 be categorically excluded from further analysis under the
7 National Environmental Policy Act of 1969 (42 U.S.C.
8 4321 et seq.). The Secretary concerned need not make any
9 findings as to whether the project, either individually or
10 cumulatively, has a significant effect on the environment.

11 **SEC. 404. RELATION TO OTHER LAWS.**

12 The authorities provided to the Secretary concerned
13 by this title are supplemental to their respective authori-
14 ties provided in any other law.

15 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

16 There is authorized to be appropriated for fiscal years
17 2004 through 2008 such sums as may be necessary to
18 carry out this title.

19 **TITLE V—HEALTHY FORESTS**
20 **RESERVE PROGRAM**

21 **SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RE-**
22 **SERVE PROGRAM.**

23 (a) ESTABLISHMENT.—The Secretary of Agriculture
24 shall establish the healthy forests reserve program as a
25 program within the Forest Service for the purpose of pro-

1 tecting, restoring, and enhancing degraded forest eco-
2 systems to promote the recovery of threatened and endan-
3 gered species as well as improve biodiversity and enhance
4 carbon sequestration.

5 (b) COOPERATION.—The Secretary of Agriculture
6 shall carry out the healthy forests reserve program in co-
7 operation with the Secretary of the Interior, acting
8 through the United States Fish and Wildlife Service.

9 **SEC. 502. ELIGIBILITY AND ENROLLMENT OF LANDS IN**
10 **PROGRAM.**

11 (a) ELIGIBLE LANDS.—The Secretary of Agriculture,
12 in consultation with the Secretary of the Interior, shall
13 designate rare forest ecosystems to be eligible for the
14 healthy forests reserve program. The following lands are
15 eligible for enrollment in the healthy forests reserve pro-
16 gram:

17 (1) Private lands whose enrollment will protect,
18 restore, enhance, or otherwise measurably increase
19 the likelihood of recovery of an endangered species
20 or threatened species in the wild.

21 (2) Private lands whose enrollment will protect,
22 restore, enhance, or otherwise measurably increase
23 the likelihood of the recovery of an animal or plant
24 species before the species reaches threatened or en-

1 dangered status, such as candidate, State-listed spe-
2 cies, rare, peripheral, and special concern species.

3 (b) OTHER CONSIDERATIONS.—In enrolling lands
4 that satisfy the criteria in paragraph (1) or (2) of sub-
5 section (a), the Secretary of Agriculture shall give addi-
6 tional consideration to those lands whose enrollment will
7 also improve biological diversity and increase carbon se-
8 questration.

9 (c) ENROLLMENT BY WILLING OWNERS.—The Sec-
10 retary of Agriculture shall enroll lands in the healthy for-
11 ests reserve program only with the consent of the owner
12 of the lands.

13 (d) MAXIMUM ENROLLMENT.—The total number of
14 acres enrolled in the healthy forests reserve program shall
15 not exceed 1,000,000 acres.

16 (e) METHODS OF ENROLLMENT.—Lands may be en-
17 rolled in the healthy forests reserve program pursuant to
18 a 10-year cost-share agreement, a 30-year easement, or
19 a permanent easement with buyback option. The extent
20 to which each enrollment method is used shall be based
21 on the approximate proportion of owner interest expressed
22 in that method in comparison to the other methods.

23 (f) ENROLLMENT PRIORITY.—The Secretary of Agri-
24 culture shall give priority to the enrollment of lands that,
25 in the sole discretion of the Secretary, will provide the best

1 opportunity to resolve conflicts between the presence of
2 an animal or plant species referred to in paragraph (1)
3 or (2) of subsection (a) and otherwise lawful land use ac-
4 tivities.

5 **SEC. 503. CONSERVATION PLANS.**

6 (a) PLAN REQUIRED.—Lands enrolled in the healthy
7 forests reserve program shall be subject to a conservation
8 plan, to be developed jointly by the land owner and the
9 United States Fish and Wildlife Service. The conservation
10 plan shall include a description of the land-use activities
11 that are permissible on the enrolled lands.

12 (b) INVOLVEMENT BY OTHER AGENCIES AND ORGA-
13 NIZATIONS.—A State fish and wildlife agency, State for-
14 estry agency, State environmental quality agency, and
15 other State conservation agencies and nonprofit conserva-
16 tion organizations may assist in providing technical or fi-
17 nancial assistance, or both, for the development and imple-
18 mentation of conservation plans.

19 (c) COST EFFECTIVENESS.—The conservation plan
20 shall maximize the environmental benefits per dollar ex-
21 pended.

22 **SEC. 504. FINANCIAL ASSISTANCE.**

23 (a) PERMANENT EASEMENT WITH BUYBACK OP-
24 TION.—

1 (1) PAYMENT AMOUNT.—In the case of land
2 enrolled in the healthy forests reserve program using
3 a permanent easement with a buyback option, the
4 Secretary of Agriculture shall pay the owner of the
5 land an amount equal to—

6 (A) the fair market value of the enrolled
7 land less the fair market value of the land en-
8 cumbered by the easement; plus

9 (B) the actual costs of the approved con-
10 servation practices or the average cost of ap-
11 proved practices, as established by the Sec-
12 retary.

13 (2) BUYBACK OPTION.—Beginning on the 50th
14 anniversary of the enrollment of the land, and every
15 10th-year thereafter, the owner shall be able to pur-
16 chase the easement back from the United States at
17 a rate equal to the fair market value of the easement
18 plus the costs, adjusted for inflation, of the approved
19 conservation practices.

20 (b) 30-YEAR EASEMENT.—In the case of land en-
21 rolled in the healthy forests reserve program using a 30-
22 year easement, the Secretary of Agriculture shall pay the
23 owner of the land an amount equal to—

1 (1) 75 percent of the fair market value of the
2 land less the fair market value of the land encum-
3 bered by the easement; plus

4 (2) 75 percent of the actual costs of the ap-
5 proved conservation practices or 75 percent of the
6 average cost of approved practices, as established by
7 the Secretary.

8 (c) 10-YEAR AGREEMENT.—In the case of land en-
9 rolled in the healthy forests reserve program using a 10-
10 year cost-share agreement, the Secretary of Agriculture
11 shall pay the owner of the land an amount equal to—

12 (1) 75 percent of the actual costs of the ap-
13 proved conservation practices; or

14 (2) 75 percent of the average cost of approved
15 practices, as established by the Secretary.

16 (d) ACCEPTANCE OF CONTRIBUTIONS.—The Sec-
17 retary of Agriculture may accept and use contributions of
18 non-Federal funds to make payments under this section.

19 **SEC. 505. TECHNICAL ASSISTANCE.**

20 The Forest Service and the United States Fish and
21 Wildlife Service shall provide landowners with technical
22 assistance to comply with the terms of agreements and
23 easements under the healthy forests reserve program and
24 conservation plans.

1 **SEC. 506. SAFE HARBOR.**

2 In implementing the healthy forests reserve program,
3 the Secretary of the Interior shall provide safe harbor or
4 similar assurances, through section 7 or other authorities
5 under the Endangered Species Act of 1973 (16 U.S.C.
6 1531 et seq.), consistent with the implementing regula-
7 tions of the United States Fish and Wildlife Service, to
8 landowners who enroll land in the healthy forests reserve
9 program when such enrollment will result in a net con-
10 servation benefit for listed species.

11 **SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated \$15,000,000
13 for each of the fiscal years 2004 through 2008 to carry
14 out this title.

15 **TITLE VI—MISCELLANEOUS**
16 **PROVISIONS**

17 **SEC. 601. FOREST STANDS INVENTORY AND MONITORING**
18 **PROGRAM TO IMPROVE DETECTION OF AND**
19 **RESPONSE TO ENVIRONMENTAL THREATS.**

20 (a) IN GENERAL.—The Secretary of Agriculture shall
21 carry out a comprehensive program to inventory, monitor,
22 characterize, assess, and identify forest stands (with em-
23 phasis on hardwood forest stands) and potential forest
24 stands—

1 (1) in units of the National Forest System
2 (other than those units created from the public do-
3 main); and

4 (2) on private forest land, with the consent of
5 the owner of the land.

6 (b) ISSUES TO BE ADDRESSED.—In carrying out the
7 program, the Secretary shall address issues including—

8 (1) early detection, identification, and assess-
9 ment of environmental threats (including insect, dis-
10 ease, invasive species, fire, and weather-related risks
11 and other episodic events);

12 (2) loss or degradation of forests;

13 (3) degradation of the quality forest stands
14 caused by inadequate forest regeneration practices;

15 (4) quantification of carbon uptake rates; and

16 (5) management practices that focus on pre-
17 venting further forest degradation.

18 (c) EARLY WARNING SYSTEM.—In carrying out the
19 program, the Secretary shall develop a comprehensive
20 early warning system for potential catastrophic environ-
21 mental threats to forests to increase the likelihood that
22 forest managers will be able to—

23 (1) isolate and treat a threat before the threat
24 gets out of control; and

1 (2) prevent epidemics, such as the American
2 chestnut blight in the first half of the twentieth cen-
3 tury, that could be environmentally and economically
4 devastating to forests.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to carry out this section
7 \$5,000,000 for each of the fiscal years 2004 through
8 2008.

Union Calendar No. 52

108TH CONGRESS
1ST SESSION

H. R. 1904

[Report No. 108-96, Parts I and II]

A BILL

To improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

MAY 16, 2003

Reported from the Committee on the Judiciary, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed