

PROVIDING FOR CONSIDERATION OF H.R. 4200, FOREST
EMERGENCY RECOVERY AND RESEARCH ACT

MAY 16, 2006.—Referred to the House Calendar and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 816]

The Committee on Rules, having had under consideration House Resolution 816, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4200, the Forest Emergency Research and Recovery Act, under a structured rule. The rule provides one hour of general debate with 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources, 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule waives all points of order against consideration of the bill.

The rule provides that in lieu of the amendment recommended by the Committee on Resources now printed in the bill, the amendment in the nature of a substitute consisting of the text of the amendment in the nature of a substitute printed in the Congressional Record and numbered 1 pursuant to clause 8 of rule XVIII, shall be considered as an original bill for the purpose of amendment under the five minute rule and shall be considered as read. The rule waives all points of order against that amendment in the nature of a substitute printed in the Congressional Record.

The rule makes in order only those amendments printed in this report. The rule provides that the amendments printed in this report may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be con-

sidered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report. Finally, the rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waivers of all points of order against consideration of the bill and against the amendment in the nature of a substitute to be considered as original text for the purpose of amendment include a waiver of clause 4 of Rule XXI (prohibiting appropriations in legislative bills) because of Sections 403 and 404 of the amendment in the nature of a substitute.

The waiver of all points of order against consideration of the bill also includes a waiver of section 303 of the Congressional Budget Act, prohibiting consideration of legislation, as reported, providing new budget authority, change in revenues, change in public debt, new entitlement authority, or new credit authority for a fiscal year until the budget resolution for that year has been agreed to. It will violate section 303 because its revenue loss first becomes effective in 2007, a year for which a final budget resolution has not yet been adopted.

The waiver of all points of order against the amendments made in order under the rule are prophylactic in nature.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Rahall (WV): Strikes all waivers of existing conservation laws by removing the bill's exemptions from requirements of the National Historic Preservation Act, the Clean Water Act, the Endangered Species Act, and the National Environmental Policy Act (NEPA). The amendment also specifically requires that the Secretary concerned comply with the NEPA in utilizing the authorities under H.R. 4200. (10 minutes)

2. DeFazio (OR): Allows the emergency procedures authorized by H.R. 4200 to be used on lands managed for timber production. For all other lands—except where prohibited, such as wilderness areas—the Secretary would be required to amend land management plans to incorporate salvage and restoration activities. (10 minutes)

3. Inslee (WA): Exempts any provision in the underlying bill from being applicable to any inventoried roadless area within the National Forest System set forth in the maps contained in the Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000. (10 minutes)

4. Udall (NM): Adds language in Sec 102(e) directing the relevant Secretary to consider the effect of any pre-approved management practice or catastrophic event recovery or research project on fire risk and forest regeneration. It further states that the Secretary may not implement the practice or carry out the recovery or research project unless the Secretary is able to certify that the activity will not increase fire risk or decrease forest regeneration. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RAHALL OF WEST VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 103 (page 23, line 14, through page 24, line 9) and insert the following:

SEC. 103. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

The Secretary concerned shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.), its implementing regulations, and other applicable laws in designing and conducting catastrophic event recovery projects and catastrophic event research projects.

Strike section 104(e) (page 26, line 3, through page 27, line 8).

Strike section 105(c) (page 30, line 1, through page 31, line 11).

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DEFAZIO OF OREGON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 104 (page 24, line 10, through page 28, line 14) and insert the following new section:

SEC. 104. PRE-EVENT MANAGEMENT PLANS.

(a) **PLAN AMENDMENT.**—For Federal land where timber harvest is allowed, but not the primary management objective, the Secretary concerned shall amend the land and resource management plan or land use plan applicable to the land to pre-plan for certain activities to immediately follow a fire or other catastrophic event. The activities shall be specific to forest type and plant association group, and be appropriate to the management objectives for area described in the plan. The Secretary concerned shall initiate plan amendments with priority to areas at the greatest risk of a catastrophic event and with the most suitability for post-event activities. Managers using this pre-planning authority shall conduct environmental analysis in accordance with 36 C.F.R. 219 et seq. and 40 C.F.R. 1500 et seq.

(b) **PEER REVIEW.**—Before an activity, or collection of activities, may be adopted as an amendment to a land and resource management plan or land use plan, the activity or activities shall be subject to independent, third-party peer review by scientific and land management experts. The results of the peer review shall be available to the public no later than the availability of the draft plan revision.

(c) **EXPEDITED REVIEW.**—The Secretary concerned may use the procedures provided in section 104 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6514; Public Law 108–148) to implement activities adopted as part of the amendment of a land and resource management plan or land use plan according to subsections (a) and (b). If environmental documentation is conducted under this authority, then the administrative and judicial appeals process described in sections 105 and 106 of such Act (16 U.S.C. 6515, 6516) shall apply.

Add at the end of the bill the following new section:

SEC. 405. LIMITATION ON APPLICATION OF ACT.

In the case of Federal land covered by this Act, the Secretary concerned shall use the authorities provided for in this Act only on 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.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE INSLEE OF WASHINGTON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following new section:

SEC. 405. EXCLUSION OF INVENTORIED ROADLESS AREAS.

This Act shall not apply to any inventoried roadless area within the National Forest System set forth in the maps contained in the Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE UDALL OF NEW MEXICO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of section 102(e) (page 21, after line 15), add the following new paragraph:

(4) CONSIDERATION OF FIRE RISK AND REGENERATION.—In making any determination under paragraph (1) to implement any pre-approved management practice under section 104 or to develop and carry out a catastrophic event recovery project or catastrophic event research project, or portion of such a project, using emergency procedures under section 105, the Secretary concerned—

(A) shall consider the effect of the practice or project on fire risk and forest regeneration; and

(B) may not implement the practice or carry out the project unless the Secretary certifies that the practice or project will not increase fire-risk or decrease forest regeneration.