



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 25, 2015

### **H.R. 2647** **Resilient Federal Forests Act of 2015**

*As ordered reported by the House Committee on Natural Resources on June 11, 2015*

#### **SUMMARY**

H.R. 2647 would change the way the Forest Service conducts various activities related to forest management. The bill also would exempt lawsuits challenging certain forest management activities from the Equal Access to Justice Act (EAJA) and would require plaintiffs who sue the Forest Service for conducting such activities to post a cash bond to cover the agency's legal expenses if the agency wins the lawsuit.

Based on information provided by the Forest Service, CBO estimates that implementing the bill would cost \$10 million over the 2016-2020 period, assuming appropriation of the necessary amounts. Because H.R. 2647 contains provisions that would affect direct spending, pay-as-you-go procedures apply. However, CBO estimates that none of the provisions would have a significant effect on direct spending in any year and that enacting the bill would have a negligible net effect on direct spending over the 2016-2025 period. Enacting the legislation would not affect revenues.

H.R. 2647 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA) on plaintiffs, including public and private entities, seeking judicial review of some forest management activities on federal lands. CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2015, respectively, adjusted annually for inflation).

#### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary effect of H.R. 2647 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By Fiscal Year, in Millions of Dollars					2016-2020
	2016	2017	2018	2019	2020	
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
Estimated Authorization Level	2	2	2	2	2	10
Estimated Outlays	2	2	2	2	2	10

## **BASIS OF ESTIMATE**

### **Limit on the Use of Certain Funds for Administrative Costs**

The Knutson-Vandenberg Trust Fund (K-V Fund) consists of amounts generated by timber sales that can be retained and spent by the Forest Service to carry out activities related to forest management. The bill would prohibit the agency from using amounts in the K-V Fund to cover administrative costs for personnel working outside of ranger districts where those funds were generated. Under current law, the Forest Service spends, without annual appropriation, about \$2 million a year from the K-V Fund for that purpose. Because, under the bill, those amounts would no longer be available to cover those administrative costs, CBO estimates that implementing this provision would cost \$2 million a year over the 2016-2020 period, assuming appropriation of the necessary amounts. Based on information from the Forest Service, CBO expects this provision would not change total spending from the K-V Fund.

### **Expedited Environmental Reviews and Salvage Operations**

H.R. 2647 would expedite certain activities related to managing forests, including environmental assessments and harvesting of salvage timber after natural disasters or certain other events. Based on information provided by the Forest Service, CBO expects that enacting those provisions could affect the timing of certain salvage timber sales; however, we estimate that expediting those sales would have no significant net effect on offsetting receipts in any year.

### **Stewardship Contracting**

The bill would allow the Forest Service and the Bureau of Land Management to determine the amount of appropriated funds they reserve to pay for the costs of canceling certain stewardship contracts. Under the Antideficiency Act, federal agencies cannot spend funds in excess of amounts specifically made available to the agency. Because,

under the bill, the agencies might reserve insufficient funds to cover all the costs of canceled contracts, the legislation would effectively allow them to obligate sums greater than the appropriations they have available when they enter into the contracts—thus creating direct spending authority. However, the amount of funds set aside to cover cancellation costs for all multi-year stewardship contracts over the last 10 years averaged less than \$200,000 a year, and no contracts were cancelled over that period. We expect the agencies to continue to administer the stewardship contracting program in a similar way in the future, therefore CBO estimates that enacting this provision would have a negligible effect on direct spending.

The legislation also would amend the Healthy Forests Restoration Act to allow proceeds from activities conducted under stewardship contracts to be spent for various purposes, including providing certain direct payments to counties. The Forest Service has the authority under current law to retain and spend those proceeds; therefore, CBO estimates that enacting those provisions would have no net effect on direct spending.

### **State-supported Forest Management**

H.R. 2647 would allow states to contribute money to a new federal fund and, subject to appropriation of those contributions, direct the Forest Service to use the funds to carry out certain activities related to managing forests. Any proceeds generated by those activities also would be deposited in the fund. CBO expects that states would not contribute to the fund until the Congress provided authority in future appropriations acts to spend amounts in the fund; therefore, we estimate that enacting this provision would not affect the federal budget.

### **Elimination of Certain Restrictions on Timber Harvesting**

The bill would prohibit the Forest Service from enforcing provisions in existing land use plans that limit timber harvesting in certain areas to trees less than 21 inches in diameter. Because CBO expects that under the bill the Forest Service would shift certain timber sales from areas with low-value timber to areas with higher-value timber, enacting this provision would probably increase offsetting receipts from timber sales relative to current law. However, based on information provided by the agency, CBO estimates that any increase in receipts would not be significant in any year.

### **Lawsuits Related to Certain Activities Related to Forest Management**

H.R. 2647 would require certain plaintiffs who sue the Forest Service to post a bond to cover the agency's legal expenses. Under the bill, if the Forest Service wins the lawsuit, an amount equal to the agency's legal expenses or the amount of the bond, whichever is less, would be awarded to the agency and would be classified as an offsetting receipt. The bill also would exempt lawsuits related to certain forest management activities from

EAJA, which requires the federal government to pay attorneys' fees for certain plaintiffs that prevail in lawsuits against the United States. Based on information provided by the Forest Service regarding the number of plaintiffs likely to be affected, CBO estimates that enacting those provisions would reduce direct spending by a negligible amount each year.

## **PAY-AS-YOU-GO CONSIDERATIONS**

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting H.R. 2647 would have no significant net effect on direct spending over the 2016-2025 period, CBO estimates.

## **INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

H.R. 2647 would impose intergovernmental and private-sector mandates on plaintiffs, including public and private entities, seeking judicial review of some forest management activities on federal lands. CBO estimates that the aggregate cost of the mandates in the bill would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2015, respectively, adjusted annually for inflation).

The bill would impose a mandate by establishing bond requirements on plaintiffs seeking judicial review of some forest management projects carried out on federal lands. The value of the bond would be equal to the estimated litigation costs of the federal government. The cost of the mandate would be the purchase price of required bonds, typically 10 percent of the bond amount. CBO expects that both the number of forest management projects by federal agencies that would be litigated and the bond fee in those cases would be relatively small. Therefore, CBO expects that the annual cost of the mandate also would be small.

Additionally, the bill would prohibit plaintiffs from seeking a preliminary injunction to temporarily stop activities, such as salvage logging, on federal lands. By eliminating a right of action, the bill would impose a mandate. The cost of a mandate that eliminates a right of action is the forgone income and value of awards in such cases. Because such losses would generally not occur for the types of cases involved, CBO expects that the mandate would probably impose no costs.

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