

113TH CONGRESS
2D SESSION

S. 1966

To provide for the restoration of the economic and ecological health of National Forest System land and rural communities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2014

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the restoration of the economic and ecological health of National Forest System land and rural communities, 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 “National Forest Jobs and Management Act of 2014”.

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. Purposes.
- Sec. 3. Definitions.
- Sec. 4. Projects in Forest Management Emphasis Areas.
- Sec. 5. Administrative review; arbitration.

Sec. 6. Distribution of revenue.

Sec. 7. Performance measures; reporting.

Sec. 8. Termination.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to create a predictable wood supply from
4 National Forest System land that can be harvested,
5 processed, and sold as wood products—

6 (A) to preserve and create jobs;

7 (B) to generate revenue to be shared with
8 counties; and

9 (C) to strengthen rural economies;

10 (2) to reduce the uncertainty and costs to the
11 Forest Service of planning and implementing timber
12 management, forest restoration, and community
13 wildfire protection projects on National Forest Sys-
14 tem land; and

15 (3) to promote the use of timber harvest as a
16 method to achieve forest management goals on a
17 portion of non-reserved National Forest System
18 land.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) COVERED PROJECT.—The term “covered
22 project” means a project that involves the manage-
23 ment or sale of national forest material within a
24 Forest Management Emphasis Area.

1 (2) FOREST MANAGEMENT EMPHASIS AREA.—

2 (A) IN GENERAL.—The term “Forest
3 Management Emphasis Area” means National
4 Forest System land identified as suitable for
5 timber production in a forest management plan
6 in effect on the date of enactment of this Act.

7 (B) EXCLUSIONS.—The term “Forest
8 Management Emphasis Area” does not include
9 National Forest System land—

10 (i) that is a component of the Na-
11 tional Wilderness Preservation System; or

12 (ii) on which removal of vegetation is
13 specifically prohibited by Federal law.

14 (3) NATIONAL FOREST MATERIAL.—The term
15 “national forest material” means trees, portions of
16 trees, or forest products, with an emphasis on
17 sawtimber and pulpwood, derived from National
18 Forest System land.

19 (4) NATIONAL FOREST SYSTEM.—

20 (A) IN GENERAL.—The term “National
21 Forest System” has the meaning given the term
22 in section 11(a) of the Forest and Rangeland
23 Renewable Resources Planning Act of 1974 (16
24 U.S.C. 1609(a)).

1 (B) EXCLUSION.—The term “National
2 Forest System” does not include—

3 (i) the national grasslands and land
4 utilization projects administered under title
5 III of the Bankhead-Jones Farm Tenant
6 Act (7 U.S.C. 1010 et seq.); or

7 (ii) National Forest System land east
8 of the 100th meridian.

9 (5) SECRETARY.—The term “Secretary” means
10 the Secretary of Agriculture.

11 **SEC. 4. PROJECTS IN FOREST MANAGEMENT EMPHASIS**
12 **AREAS.**

13 (a) CONDUCT OF COVERED PROJECTS WITHIN FOR-
14 EST MANAGEMENT EMPHASIS AREAS.—

15 (1) IN GENERAL.—The Secretary may conduct
16 covered projects in Forest Management Emphasis
17 Areas, subject to paragraphs (2) through (4).

18 (2) DESIGNATING TIMBER FOR CUTTING.—

19 (A) IN GENERAL.—Notwithstanding sec-
20 tion 14(g) of the National Forest Management
21 Act of 1976 (16 U.S.C. 472a(g)), the Secretary
22 may use designation by prescription or designa-
23 tion by description in conducting covered
24 projects under this Act.

1 (B) REQUIREMENT.—The designation
2 methods authorized under subparagraph (A)
3 shall be used in a manner that ensures that the
4 quantity of national forest material that is re-
5 moved from the Forest Management Emphasis
6 Area is verifiable and accountable.

7 (3) CONTRACTING METHODS.—

8 (A) IN GENERAL.—Timber sale contracts
9 under section 14 of the National Forest Man-
10 agement Act of 1976 (16 U.S.C. 472a) shall be
11 the primary means of carrying out covered
12 projects under this Act.

13 (B) RECORD.—If the Secretary does not
14 use a timber sale contract under section 14 of
15 the National Forest Management Act of 1976
16 (16 U.S.C. 472a) to carry out a covered project
17 under this Act, the Secretary shall provide a
18 written record specifying the reasons that dif-
19 ferent contracting methods were used.

20 (4) ACREAGE TREATMENT REQUIREMENTS.—

21 (A) TOTAL ACREAGE REQUIREMENTS.—
22 The Secretary shall identify, prioritize, and
23 carry out covered projects in Forest Manage-
24 ment Emphasis Areas that mechanically treat a
25 total of at least 7,500,000 acres in the Forest

1 Management Emphasis Areas during the 15-
2 year period beginning on the date that is 60
3 days after the date on which the Secretary as-
4 signs the acreage treatment requirements under
5 subparagraph (B).

6 (B) ASSIGNMENT OF ACREAGE TREAT-
7 MENT REQUIREMENTS TO INDIVIDUAL UNITS
8 OF THE NATIONAL FOREST SYSTEM.—

9 (i) IN GENERAL.—Not later than 60
10 days after the date of enactment of this
11 Act and subject to clause (ii), the Sec-
12 retary, in the sole discretion of the Sec-
13 retary, shall assign the acreage treatment
14 requirements that shall apply to the Forest
15 Management Emphasis Areas of each unit
16 of the National Forest System.

17 (ii) LIMITATION.—Notwithstanding
18 clause (i), the acreage treatment require-
19 ments assigned to a specific unit of the
20 National Forest System under that clause
21 may not apply to more than 25 percent of
22 the acreage to be treated in any unit of the
23 National Forest System in a Forest Man-
24 agement Emphasis Area during the 15-
25 year period described in subparagraph (A).

1 (b) ENVIRONMENTAL ANALYSIS AND PUBLIC RE-
2 VIEW PROCESS FOR COVERED PROJECTS IN FOREST
3 MANAGEMENT EMPHASIS AREAS.—

4 (1) ENVIRONMENTAL ASSESSMENT.—The Sec-
5 retary shall comply with the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321 et seq.) by com-
7 pleting an environmental assessment that assesses
8 the direct environmental effects of each covered
9 project proposed to be conducted within a Forest
10 Management Emphasis Area, except that the Sec-
11 retary shall not be required to study, develop, or de-
12 scribe more than the proposed agency action and 1
13 alternative to the proposed agency action for pur-
14 poses of that Act.

15 (2) PUBLIC NOTICE AND COMMENT.—In pre-
16 paring an environmental assessment for a covered
17 project under paragraph (1), the Secretary shall pro-
18 vide—

19 (A) public notice of the covered project;
20 and

21 (B) an opportunity for public comment on
22 the covered project.

23 (3) LENGTH.—The environmental assessment
24 prepared for a covered project under paragraph (1)
25 shall not exceed 100 pages in length.

1 (4) INCLUSION OF CERTAIN DOCUMENTS.—The
2 Secretary may incorporate, by reference, into an en-
3 vironmental assessment any documents that the Sec-
4 retary, in the sole discretion of the Secretary, deter-
5 mines are relevant to the assessment of the environ-
6 mental effects of the covered project.

7 (5) DEADLINE FOR COMPLETION.—Not later
8 than 180 days after the date on which the Secretary
9 has published notice of a covered project in accord-
10 ance with paragraph (2), the Secretary shall com-
11 plete the environmental assessment for the covered
12 project.

13 (c) COMPLIANCE WITH ENDANGERED SPECIES
14 ACT.—To comply with the Endangered Species Act of
15 1973 (16 U.S.C. 1531 et seq.), the Secretary shall use
16 qualified professionals on the staff of the Forest Service
17 to make determinations required under section 7 of that
18 Act (16 U.S.C. 1536).

19 (d) LIMITATION ON REVISION OF NATIONAL FOREST
20 PLANS.—The Secretary may not, during a revision of a
21 forest plan under section 6 of the Forest and Rangeland
22 Renewable Resources Planning Act of 1974 (16 U.S.C.
23 1604), reduce the acres designated as suitable for timber
24 harvest under a covered project, unless the Secretary de-
25 termines, in consultation with the Secretary of the Inte-

rior, that the reduction in acreage is necessary to prevent a jeopardy finding under section 7(b) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)).

SEC. 5. ADMINISTRATIVE REVIEW; ARBITRATION.

(a) ADMINISTRATIVE REVIEW.—Administrative review of a covered project shall occur only in accordance with the special administrative review process established by section 105 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6515).

(b) ARBITRATION.—

(1) IN GENERAL.—There is established in the Department of Agriculture a pilot program that—

(A) authorizes the use of arbitration instead of judicial review of a decision made following the special administrative review process for a covered project described in subsection (a); and

(B) shall be the sole means to challenge a covered project in a Forest Management Emphasis Area during the 15-year period beginning on the date that is 60 days after the date on which the Secretary assigns the acreage treatment requirements under section 4(a)(4)(B).

(2) ARBITRATION PROCESS PROCEDURES.—

1 (A) IN GENERAL.—Any person who sought
2 administrative review for a covered project in
3 accordance with subsection (a) and who is not
4 satisfied with the decision made under the ad-
5 ministrative review process may file a demand
6 for arbitration in accordance with—

7 (i) chapter 1 of title 9, United States
8 Code; and

9 (ii) this paragraph.

10 (B) REQUIREMENTS FOR DEMAND.—A de-
11 mand for arbitration under subparagraph (A)
12 shall—

13 (i) be filed not more than 30 days
14 after the date on which the special admin-
15 istrative review decision is issued under
16 subsection (a); and

17 (ii) include a proposal containing the
18 modifications sought to the covered
19 project.

20 (C) INTERVENING PARTIES.—

21 (i) DEADLINE FOR SUBMISSION; RE-
22 QUIREMENTS.—Any person that submitted
23 a public comment on the covered project
24 subject to the demand for arbitration may
25 intervene in the arbitration under this sub-

1 section by submitting a proposal endorsing
2 or modifying the covered project by the
3 date that is 30 days after the date on
4 which the demand for arbitration is filed
5 under subparagraph (A).

6 (ii) MULTIPLE PARTIES.—Multiple ob-
7 jectors or intervening parties that meet the
8 requirements of clause (i) may submit a
9 joint proposal under that clause.

10 (D) APPOINTMENT OF ARBITRATOR.—The
11 United States District Court in the district in
12 which a covered project subject to a demand for
13 arbitration filed under subparagraph (A) is lo-
14 cated shall appoint an arbitrator to conduct the
15 arbitration proceedings in accordance with this
16 subsection.

17 (E) SELECTION OF PROPOSALS.—

18 (i) IN GENERAL.—An arbitrator ap-
19 pointed under subparagraph (D)—

20 (I) may not modify any of the
21 proposals submitted under this para-
22 graph; and

23 (II) shall select to be con-
24 ducted—

1 (aa) a proposal submitted by
2 an objector under subparagraph
3 (B)(ii) or an intervening party
4 under subparagraph (C); or

5 (bb) the covered project, as
6 approved by the Secretary.

7 (ii) SELECTION CRITERIA.—An arbi-
8 trator shall select the proposal that best
9 meets the purpose and needs described in
10 the environmental assessment conducted
11 under section 4(b)(1) for the covered
12 project.

13 (iii) EFFECT.—The decision of an ar-
14 bitrator with respect to a selection under
15 clause (i)(II)—

16 (I) shall not be considered a
17 major Federal action;

18 (II) shall be binding; and

19 (III) shall not be subject to judi-
20 cial review.

21 (F) DEADLINE FOR COMPLETION.—Not
22 later than 90 days after the date on which a de-
23 mand for arbitration is filed under subpara-
24 graph (A), the arbitration process shall be com-
25 pleted.

1 **SEC. 6. DISTRIBUTION OF REVENUE.**

2 (a) PAYMENTS TO COUNTIES.—

3 (1) IN GENERAL.—Effective for fiscal year
4 2015 and each fiscal year thereafter until the termi-
5 nation date under section 8, the Secretary shall pro-
6 vide to each county in which a covered project is car-
7 ried out annual payments in an amount equal to 25
8 percent of the amounts received for the applicable
9 fiscal year by the Secretary from the covered project.

10 (2) LIMITATION.—A payment made under para-
11 graph (1) shall be in addition to any payments the
12 county receives under the payment to States re-
13 quired by the sixth paragraph under the heading
14 “FOREST SERVICE” in the Act of May 23, 1908 (35
15 Stat. 260; 16 U.S.C. 500), and section 13 of the Act
16 of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

17 (b) DEPOSIT IN KNUTSON-VANDENBERG AND SAL-
18 VAGE SALE FUNDS.—After compliance with subsection
19 (a), the Secretary shall use amounts received by the Sec-
20 retary from covered projects during each of the fiscal
21 years during the period described in subsection (a) to
22 make deposits into the fund established under section 3
23 of the Act of June 9, 1930 (commonly known as the
24 “Knutson-Vandenberg Act”) (16 U.S.C. 576b) and the
25 fund established under section 14(h) of the National For-
26 est Management Act of 1976 (16 U.S.C. 472a(h)) in con-

1 tributions equal to the amounts otherwise collected under
2 those Acts for projects conducted on National Forest Sys-
3 tem land.

4 (c) DEPOSIT IN GENERAL FUND OF THE TREAS-
5 URY.—After compliance with subsections (a) and (b), the
6 Secretary shall deposit into the general fund of the Treas-
7 ury any remaining amounts received by the Secretary for
8 each of the fiscal years referred to in those subsections
9 from covered projects.

10 **SEC. 7. PERFORMANCE MEASURES; REPORTING.**

11 (a) PERFORMANCE MEASURES.—The Secretary shall
12 develop performance measures that evaluate the degree to
13 which the Secretary is achieving—

14 (1) the purposes of this Act; and

15 (2) the minimum acreage requirements estab-
16 lished under section 4(a)(4).

17 (b) ANNUAL REPORTS.—Annually, the Secretary
18 shall submit to the Committee on Energy and Natural Re-
19 sources of the Senate and the Committee on Natural Re-
20 sources of the House of Representatives—

21 (1) a report that describes the results of evalua-
22 tions using the performance measures developed
23 under subsection (a); and

24 (2) a report that describes—

1 (A) the number and substance of the cov-
2 ered projects that are subject to administrative
3 review and arbitration under section 5; and

4 (B) the outcomes of the administrative re-
5 view and arbitration under that section.

6 **SEC. 8. TERMINATION.**

7 The authority of this Act terminates on the date that
8 is 15 years after the date of enactment of this Act.

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