

The Resilient Federal Forests Act (RFFA), [H.R. 2936](#)—which would [curb environmental review](#) under the National Environmental Policy Act (NEPA) for a variety of forest management activities on National Forest and BLM lands—passed the House November 1. (We previously wrote about a version of this bill in committee [here](#).) NEPA requires agencies to consider whether proposed major federal actions may have significant environmental impacts. If a proposed action will have significant impacts, the agency is required to consider a reasonable range of alternatives and develop mitigation measures.

The RFFA is framed as a wildfire prevention measure that would streamline the process for management actions to reduce fire risks before major fires start. It would reduce the alternatives that the Departments of Agriculture and Interior would have to consider before carrying out a number of forest management activities to one—a no-action alternative. The provision would apply to management activities in forests suffering from insect and disease infestation, in forests near communities at risk for a major wildfire, and in areas designated suitable for timber production. It would also apply to any forest management activity developed by a resource advisory committee—a regional body consisting of representatives from timber, recreation, and environmental advocates—or as part of a “transparent and “collaborative process” involving “multiple interested persons representing diverse interests.”

The RFFA would eliminate environmental review under NEPA altogether for a number of activities by creating categorical exclusions. Generally, categorical exclusions exempt from NEPA review types of actions that do not have significant environmental impact. The RFFA would exempt from review management activities to respond to insect or disease infestation, reduce hazardous fuel loads, salvage trees after a natural disaster, and protect other natural resources and infrastructure. Generally, the size of exempted projects would be limited to 10,000 acres, but projects aimed at infestation, fuel reduction, and protection of water and wildlife habitat could extend to 30,000 acres if developed by a resource advisory committee, in cooperation with a community at risk for major wildfire, or the collaborative process described above. Although the RFFA is framed as an expedient to prevent fires, some exclusions might primarily benefit the timber industry. For tree-salvaging projects, the 10,000-acre exclusion would replace a current limit of 250 acres. An exclusion would apply to projects of up to 10,000 acres to create early successional forests. Early successional forests are often created by clear-cutting, for which no exclusion currently exists.

In addition to relaxing NEPA environmental review requirements for forest management activities, the RFFA would speed the review process for certain projects. Environmental assessment—the first step under NEPA review—for any post-disaster salvage project not

otherwise exempted from review would have to be completed within 60 days of the disaster. Review would also be expedited under the Endangered Species Act for projects that might affect threatened and endangered species. Section 7 consultation would not be required where the Secretary of Interior or Agriculture decided that a project did not threaten a listed species or its critical habitat, and any consultation not concluded within ninety days would count as a waiver of consultation requirements. Given the pace of consultation, this might effectively eliminate ESA protections for endangered species and their habitat on Forest Service and BLM lands. Regardless, the RFFA would designate forest management activities as non-discretionary actions, which also might exempt them from the ESA altogether.

The RFFA would complement the lowering of environmental review requirements by raising the hurdles for litigants challenging compliance with those requirements. It would prevent plaintiffs from recovering attorney's fees for successful challenges, and would limit preliminary injunctions to 60 days (although it would allow for injunctions to be renewed). It would also establish a pilot arbitration program to adjudicate a limited number of challenges—10 per year in each Forest Service and BLM region—without judicial review.

The RFFA would also make a major change to the funding for fighting wildfires. A majority of the Forest Service budget is dedicated to firefighting. To relieve pressure on the budget and provide relief in the face of escalating wildfires, the RFFA would add wildfire to the list of disasters eligible for federal emergency funding from FEMA. Money for wildfire victims may make the bill more palatable to Senate Democrats opposed to rolling back of environmental protections. However, the money may come with a tradeoff. The Budget Control Act of 2011 caps discretionary appropriations by Congress through 2021, but it allows a cap adjustment for disaster relief. Discretionary spending on disaster relief is allowed up to the annual average of spending over the previous ten years, excluding the highest and lowest years. If wildfire is added to the list of disasters eligible for relief funding, it may siphon funds away from other disasters—especially at a time when both wildfire and other disasters are on the rise. On the eve of the House vote, the Trump Administration [expressed concern](#) that wildfires would compete with funding for other headline disasters like hurricanes. In the only substantive change to the bill since it was introduced, a new provision was added to revise the cap-adjustment calculation upward to include current non-emergency costs of fighting wildfires and ten percent of annual non-discretionary emergency funding for disaster relief.

*Tom Schumann helped draft this blog post.*