Looking a Gift Horse in the Mouth: 2014 Farm Bill Insect and Disease Restoration Provision -- True Gift or False Hope?

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LOOKING A GIFT HORSE IN THE MOUTH: 2014 FARM BILL INSECT AND DISEASE RESTORATION PROVISION--

TRUE GIFT OR FALSE HOPE?

By

Jamilee E. Holmstead

A thesis submitted in partial fulfillment of the requirements for the degree of

MASTER OF SCIENCE

in

Sociology

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UTAH STATE UNIVERSITY
Logan, Utah

2015
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ABSTRACT

Looking a Gift Horse in the Mouth: 2014 Farm Bill Insect and Disease Restoration Provisions—True Gift or False Hope?

by

Jamilee E. Holmstead, Master of Science
Utah State University, 2015.

Major Professor: Dr. Steve Daniels
Department: Sociology

Congress passed a revised Farm Bill in 2014 that amended the Healthy Forest Restoration Act (HFRA) to, hopefully, increase the speed with which natural resource issues could be addressed. Federal land management has often been condemned for being time-consuming and burdensome, chiefly in situations that require rapid response, such as insect, disease and fire. The amendment in the 2014 Farm Bill is meant to address this concern. This amendment would allow for the insect and disease restoration projects on U.S.D.A. Forest Service land to fall under the National Environmental Policy Act (NEPA) as categorical exclusions, provided that collaboration occurs while creating and implementing the projects. This new provision could allow for the U.S.D.A. Forest Service to create and implement restoration projects at a faster rate than ever before. Each state’s Governor was required to nominate restoration lands in their National Forests. These nominations
ranged from very comprehensive to extremely ambiguous and from just a few acres to entire national forests. This research documents why there was variation in designation nominations and what potential benefit this new amendment could bring to future natural resource management.
PUBLIC ABSTRACT

Looking a Gift Horse in the Mouth: 2014 Farm Bill Insect and Disease Restoration Provisions—True Gift or False Hope?

Jamilee E. Holmstead

Provisions in the 2014 Farm Bill were meant to increase the speed within which natural resource managers could treat insect and disease issues on National Forests. In order to use this new authority, each state was required to nominate acre portions of each National Forest with insect and disease risks.

The 35 nominations that were submitted differed substantially, from the amount of acreage nominated to the amount of effort that went into developing the nomination. The purpose of the research was to understand why there was such variation in the nominations. Several of the states that submitted nominations were contacted and interviewed to better understand the process each state took in creating the nomination.

Several common themes arose in the interviews that were causes for variation in the nomination process: how states cooperated with other states and federal agencies in creating their nomination, confusion about how to develop the nomination and how the provision was to be ultimately applied.
ACKNOWLEDGMENTS

I would like to thank Dr. Steve Daniels, my thesis advisor, for supporting me in obtaining my dream, as well as Dr. Courtney Flint and Dr. Mark Brunson, my thesis committee, for their continuous encouragement during the past 2 years. I give special thanks to all those individuals who participated in my research.

Jamilee Holmstead
DEDICATION

To my dear parents, Doug and Joan Lords, who showed me by example how important education was no matter your age. To my amazing husband, Peder Holmstead, that loved me even when I was crazed by stress and gave me strength to push through the hard so I could enjoy the sweet. To my sweet twin baby boys, Fynn and Carsten, whose entrance into this world motivated me to finish my thesis and degree. Finally, to all those wonderful people that took the time to help me research, write, edit and complete this thesis. I could not have done it without you.
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The NEPA process flow chart
INTRODUCTION

Federal land management is often criticized for being slow and cumbersome, particularly when insect, disease and fire demand a rapid response (Dombeck, Williams, & Wood, 2004; Stern & Mortimer, 2009). The 2014 Farm Bill contained an amendment to the Healthy Forest Restoration Act (HFRA) that potentially addresses this concern (16 USC 6591a, 2014; 16 USC 6591b, 2014). This amendment would allow for the insect and disease restoration projects on U.S.D.A. Forest Service land to fall under the National Environmental Policy Act (NEPA) as a categorical exclusion, provided that collaboration occurs while creating and implementing the projects. This could allow the U.S.D.A. Forest Service to more quickly implement restoration projects than previously possible. Each state was required to nominate land for restoration on their National Forests. The written nominations ranged from very detailed to extremely vague and from just a few watersheds to entire National Forests.

The purpose of this research is to understand the different processes that each state went through in creating the nomination and to understand what factors influenced the variation between each state’s nominations. This research also creates a historical record of the process each state went through in creating designations so that future research will not have to solely rely on retrospective data to inform their work on the 2014 Farm Bill. It also gives insight to the impact of each state’s process on the long-term utilization of the new insect and disease
provision. This report takes a deeper look at the nominations on a state-by-state level to find the answer.
BACKGROUND

The U.S.D.A. Forest Service must follow regulatory processes that are slow and challenging to complete any type of management project (Stern & Mortimer, 2009; “The Process Predicament,” 2002). The U.S.D.A. Forest Service has therefore been criticized for being ineffective and many states have pushed to take back control of their federal lands, such as Arizona, Colorado, Idaho, Montana, New Mexico, Utah and Wyoming (Harrie, 2014). States can address the needs of the forests at a faster rate than the U.S.D.A. Forest Service, because they will no longer restricted by the same management decision-making laws (“Process Predicament,” 2002).

These concerns from the states have led policy makers to create policies that allow for faster acting management strategies and increased public involvement (Fleeger & Beck, 2010; Wise & Yoder, 2007). When preventing or responding to issues such as wildfire, insect and disease, speed is important. The Healthy Forest Restoration Act (HFRA) was created in 2003 to accomplish the goal of speed. After several years of use, this policy has been shown to work and is being implemented in many areas of the U.S.A. (Jakes et al., 2011). Because of the apparent success of the HFRA, a new provision in the 2014 Farm Bill was created to assist in immediate suppression and prevention of insect and disease in many of the U.S. National Forests. However, creation of this provision has yet to prove itself as useful and prudent.
National Environmental Policy Act (NEPA)

As part of the environmental awakening during the 1960s in the United States, people began to push for policies to protect the country’s natural resources. In answer to persistent concerns, the federal government began to form laws and regulations to create future oversight of federal agencies concerning decisions on the use of the country’s natural resources (Dreyfus & Ingram, 1976). The National Environmental Policy Act (NEPA) creates a process of environmental analysis that each federal agency must complete before doing a project that may be potentially harmful to the environment and is one of the most far-reaching outcomes of this movement. Congress enacted it in 1969, and since that time NEPA has continued to play a major role in federal agencies function and structure.

The Process

Because federal agencies have widely different mandates and administrative processes, they are individually responsible for their NEPA compliance. Therefore, many agencies have staff specifically devoted to understanding how the NEPA process should be properly conducted (“A Citizen’s Guide,” 2007). Figure 1 demonstrates each step agencies must use to determine which avenue to take

---

1 The majority of the information for the Process section comes from Hoover, Katie and Marc J. Stern (2014).
within the NEPA process. This figure streamlines the process, but each box within the flow chart requires attention, detail and time to complete the steps properly. Within the flow chart, the abbreviations CE, EA, and EIS stand for Categorical Exclusion, Environmental Assessment and Environmental Impact Statement, respectively. These are the three levels of analysis in the NEPA process.

**Figure 1.** The NEPA process flow chart. A Citizen's Guide to the NEPA: Having Your Voice Heard (2007). Executive Office of the President of the United States.
**Categorical Exclusion**

The CE is the simplest and quickest of the three levels of analysis. It does not require extensive research, public participation or alternative project plans. Projects that fall under a CE are those that an agency concludes are not going to have any significant effect, individually or cumulatively, to the human environment. Included in this are old projects that have already gone through an EA or EIS and are in the plans to be re-built or replaced (“A Citizen's Guide,” 2004). A few examples of items that fall under a CE include actions such as reconstruction of old hiking trails, fences or cattle guards and small facility renovations, such as replacing a gate at a warehouse. Each agency differs in what they are responsible for and so they each have varying projects that qualify for a CE.

**Environmental Assessment**

The next level of NEPA analysis is the Environmental Assessment. This process is more complex and requires more time and effort than a Categorical Exclusion. It looks at the possible environmental effects that may be caused by the proposed action and any significance it would have on the natural resources in the area of the project. It also looks at possible alternatives that could achieve the objectives of the project. An EA should consider four things: possible alternatives, environmental impact of proposed action and alternatives, and a list of individuals
involved in the EA preparation. Unlike a CE, an EA involves original analysis of the environmental impact of the proposed action.

An EA allows agencies to have considerable latitude in determining how much public involvement they would like in the project decision-making process (Stern et al., 2009). Depending on the specifics of the proposed action, an agency may choose to involve complete public interaction, make the EA available only to members of the public that are interested in the project or not involve the public at all. After the public involvement period is over, it is determined whether the project needs further analysis or that there is no significant impact and the project can proceed as planned, which concludes the EA ("A Citizen’s Guide," 2004).

**Environmental Impact Statement**

An EIS is the most extensive and time-consuming level of the NEPA analysis. It is extensive both in terms of analysis and disclosure (document preparation and public involvement), and time consuming because it is broken up into five steps. Each part requires an extensive amount of time in order to be successfully executed. First, a Notice of Intent (NOI) is written and then published in the Federal Register. The NOI briefly details the proposed project and the possible alternatives. It also gives information about how the public can get involved and future meetings that will be held to discuss the proposed project.
Once the NOI is published, the second step—scoping—begins. The main purpose of the scoping process is to bring to light issues that will be discussed in detail in the EIS itself. This is an initial opportunity for the public to voice their concerns about the potential project. The project schedule is created during this step as well.

Step three is the creation of a draft EIS. All the issues and concerns brought up during the scoping period are analyzed and plan alternatives are developed. Several alternative solutions are offered that best fit the purpose and need of the proposed project. These alternatives are discussed in detail and the agency mentions which alternative, if any, they prefer. The draft EIS is then published on the Federal Register for a public comment period of at least 45 days. This is another opportunity for public involvement and comment.

The fourth step is creating the final EIS. Here all concerns from the comment period must be addressed. All comments must be taken into account, whether that is a change in the final EIS or an explanation as to why a certain comment does not need a response from the agency. When this is done and the agency feels that it is ready, the final EIS is published.

The final step in the EIS process is the Record of Decision (ROD). The ROD is a document stating what the agency has decided to do. It includes plans to mitigate any unavailable damage, what their alternatives were, and which one they chose, along with any monitoring or enforcements that may be necessary. This document is
also released for public viewing and agencies must wait at least 30 days before they initiate the proposed project.

Table 1 shows the approximate time requirements across the NEPA levels of analysis. Choosing the correct level of analysis is essential to project outcome. If an agency chooses the incorrect level it can be potentially detrimental to future projects. For example, if an agency chooses a level of analysis that is too low, the project can be legally vulnerable and lead to further challenges. On the other hand, if an agency chooses a higher level of analysis, it could slow down the process of getting a project completed, draining time, staff and spending funds that could be allocated to more important needs. Because of the many requirements for NEPA, it has become known as a cumbersome, costly, and a very time-consuming process (Bear, 2003; Stern et al., 2009).

Table 1

<table>
<thead>
<tr>
<th>NEPA Process</th>
<th>CE</th>
<th>EA</th>
<th>EIS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Analysis of Impact/Alternatives</td>
<td>Minimal</td>
<td>Moderate</td>
<td>Extensive</td>
</tr>
<tr>
<td>Written Documents</td>
<td>None</td>
<td>Moderate</td>
<td>Extensive</td>
</tr>
<tr>
<td>Public Involvement</td>
<td>None</td>
<td>Minimal</td>
<td>Extensive</td>
</tr>
<tr>
<td>Time Frame</td>
<td>Very quick</td>
<td>6-18 Months</td>
<td>3+ years</td>
</tr>
</tbody>
</table>
Critique of NEPA

When NEPA was signed into law in January of 1970, it only addressed (vaguely) the necessity for public involvement, because of the way the bill was written, the only requirement for federal agencies was to, “make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the environment” (42 USC 4331, 1970, p. 709). This gives federal agencies the power to determine what role public involvement plays in the NEPA process.

When doing an EA or EIS, agencies are required to solicit comments but are given the license to pick and choose how to address the comments in the final decision-making process (Hoover & Stern, 2014). If a comment is based solely on opinion or doesn’t meet a certain level of substance or significance, it requires no response (Predmore, Stern, & Mortimer, 2011). This has allowed agencies to bypass comments that are value-based and focus instead on comments and concerns that have scientific, legal and project-specific relevance.

This limited ability of individuals to influence management decision-making processes has caused federal agencies to fall under greater scrutiny by the public and by advocacy organizations, leading to increased litigation, difficulty in staffing teams to complete EAs and EISs and challenges in creating effective public involvement (Bear, 2003; Stern et al., 2009). For example, in the U.S.D.A. Forest
Service, alleged NEPA violations were included in nearly 70% of the litigations they were involved in, from 1989 to 2002 (Keele et al., 2006). Litigation and inability to work effectively with the public, among other things, have created slow and expensive barriers, causing delays in allowing the U.S.D.A. Forest Service to address issues that require a rapid response. Thus, there are times when the thoroughness of NEPA can be largely problematic (Bear, 2003; Stern et al., 2009).

In many instances, wildfire issues require rapid response and public support. In 2003, Congress passed the Healthy Forest Restoration Act (HFRA). This act was written to assist in accelerated fuel treatment planning that would help federal and non-federal lands mitigate wildfire hazards in the wild land-urban interface (WUI). Consistent with the need for speed, the HFRA streamlined NEPA, requiring fewer alternatives and including a community-based collaborative approach (16 USC 6591, 2003). This allowed interested parties in the community to be more involved with the issues at hand beyond a simple comment period that EAs and EISs require (Lachapelle & McCool, 2012).

HFRA was a new policy tool that allowed for direct public involvement and interaction (Fleeger & Becker, 2010). The purpose was to encourage public support and the creation of possible management plans in a timely manner. However, HFRA is limited to those WUI areas and does not extend to those areas in the interior of national forests that also need immediate attention.
2014 Farm Bill

On 7 February of 2014, the latest Farm Bill was passed. The Farm Bill is recreated every five years to direct the changing needs of the Department of Agriculture. The 2014 bill contained a provision to improve the speed by which the U.S.D.A. Forest Service could react to health threats on all National Forests.

The 2014 Farm Bill amended the 2003 HFRA, to broaden the boundaries of HFRA beyond that of WUI areas. This new provision creates an opportunity for national forests to more rapidly treat areas that they have deemed threatened or are likely to become threatened by insect or disease. Certain factors, which will be discussed later in this paper, may limit the use of this new provision; however, the insect and disease provision could be a stepping-stone for other policy innovations allowing for quicker responses to management issues.

Insect and Disease Provision

This new insect and disease provision has allowed for two unique modifications to existing NEPA procedures: a special EA/EIS stipulation and a creation of a hybrid CE.
Environmental Assessment/
Environmental Impact Statement

The new EA/EIS follows section 102 (b), (c) and (d), as well as sections 104, 105 and 106 of the HFRA (16 USC 6591a, 2014). The stipulations for using this EA/EIS requires that the U.S.D.A. Forest Service create projects that are consistent with the existing forest plan, do not exceed 3,000 acres and do not include restricted areas such as wilderness areas (16 USC 6591b, 2014). The environmental analysis report must include no more than three alternatives: the alternative the agency favors, a no action alternative and an additional action alternative (if requested in the scoping period). Using the new EA/EIS decreases the amount of time needed to research and write the six or eight alternatives included in the typical NEPA EIS. Finally, the desired projects are subject to the special administrative review and judicial review processes outlined in HFRA (16 USC 6591a, 2014).

Hybrid Categorical Exclusion

The insect and disease provision creates a hybrid CE alternative (16 USC 6591b, 2014). The new CE is meant to shorten the amount of time needed to develop a management plan for insect and diseased acres, as well as to allow for more direct public involvement in the decision-making process. In order for the National Forest to use the new CE, they must either create a collaborative process or utilize an existing Resource Advisory Committee (RAC) (16 USC 6591b, 2014). The collaborative process must include multiple interested people that represent
diverse interests such as environmental groups, private timber industries, federal agencies, state agencies, scientists and so forth (16 USC 6591b, 2014).

Their work must also be transparent and nonexclusive so the public can be openly involved in all meetings and have access to all meeting notes. If a RAC is chosen over a collaborative group it must ensure, “that membership can be balanced in terms of the points of view represented and the functions to be performed” (16 USC 500 note,, p. 1618).

However, unlike a normal CE, this hybrid version is required to analyze the impacts to the project area, create a proposed action plan and have a scoping period in conjunction with the collaborative group/advisory committee to assist in understanding public concerns and address them in their management plan (16 USC 6591b, 2014).

Examining the attributes of the insect and disease CE, as demonstrated in Table 2 shows that public involvement and level of analysis are much more involved and demanding compared to a regular CE. A regular CE requires minimal to no immediate analysis of a project’s impact because, in most cases, those impacts have already been shown to be minimal or nonexistent, whereas; the insect and disease CE requires a more extensive consideration of the possible impacts that a project might cause, since there is greater potential for harm (given the nature of the proposal). Public involvement via collaboration is also a crucial part of the insect and disease provision.
Table 2

*Conventional NEPA Processes Compared to the New CE Authority*

<table>
<thead>
<tr>
<th>NEPA Process</th>
<th>CE</th>
<th>EA</th>
<th>EIS</th>
<th>Insect &amp; Disease CE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Analysis of Impact/Alternatives</td>
<td>Minimal</td>
<td>Moderate</td>
<td>Extensive</td>
<td>Moderate/Extensive</td>
</tr>
<tr>
<td>Written Documents</td>
<td>None</td>
<td>Moderate</td>
<td>Extensive</td>
<td>None</td>
</tr>
<tr>
<td>Public Involvement</td>
<td>None</td>
<td>Minimal</td>
<td>Extensive</td>
<td>Scoping/Collaborating</td>
</tr>
<tr>
<td>Time Frame</td>
<td>Very quick</td>
<td>6-18 Months</td>
<td>3+ years</td>
<td>?</td>
</tr>
</tbody>
</table>

For these reasons, the time required to write and authorize an insect and disease CE is yet to be seen, owing to the amount of time needed for public involvement. Due to this uncertain time frame, doubts have been raised as to whether the use of this new CE authority will be more effective.

**Designation Process**

The main goal of the 2014 Farm Bill provision was to have the new CEs apply to the insect and disease restoration projects specific to each state and their needs; however, before these new authorities could be used, each state was required to nominate areas of land in each National Forest that were potentially at-
risk for insect and disease. This nomination of at-risk lands had to be completed through the Governor’s office of each state. A letter was sent on 19 March of 2014 to each Governor’s office requesting that they submit a nomination within 60 days from the time the 2014 Farm Bill was enacted (16 USC 6591a, 2014). To do this, each state was asked to utilize the annual forest health survey or risk assessment map developed by the U.S.D.A Forest Service and determine which areas were experiencing declining forest health, which areas were at risk of experiencing substantial tree mortality over the next 15 years and which areas posed an imminent threat to public infrastructure, health or safety due to insect and disease (16 USC 6591a, 2014).

Each state, with the assistance of the U.S.D.A Forest Service, subsequently decided which areas would most likely benefit from the assistance of the new provision. Once the areas were designated, Governors were required to write a letter to the Chief of the U.S.D.A. Forest Service specifically nominating the areas as part of the new authority (Tidwell, 2014). Letters were reviewed and the areas were approved for designation. If a state desired to designate additional land after the 60-day period, they were given permission to do so. Thirty-four of the fifty states nominated land and Washington abstained in order to give the nomination more attention than the 60 days allowed.
Projects and Limitations

Under the new provision, projects can only be focused on forest health issues that involve insect and/or disease such as: substantial tree mortality, dieback or defoliation. Each project must, “maximize the retention of old-growth and large trees ... to the extent that the trees promote stands that are resilient to insects and disease” (16 USC 6591a, 2014, p. 268). Treatment types for projects can include pesticide application, commercial/noncommercial logging and prescribed burns, however; the type of treatment must comply with the forest plan for that area (Smalls, 2014).

Each project is limited to 3,000 acres, though projects can be done side-by-side for increased efficiency. All projects must be located in a WUI or a fire regime condition class of 2 or 3, in a fire regime group of 1, 2, or 3 outside of a WUI location. No permanent roads can be constructed and all temporary roads, built to assist in treatment projects, must be decommissioned after three years of project completion. Finally, no projects can take place in wilderness areas or any federal land in which Congress or the President of the United States has restricted the removal of vegetation, such as national monuments.
Research Questions and Methods

As states submitted nominations for the insect and disease area designations, there were many differences in nomination processes used by each state, as well as the amount of land that each state proposed for designation leading to several questions about the reasons behind this variation as well as potential implications. What process did each state use to create the statewide designation recommendations for the insect and disease areas on their National Forest lands? What guidance for creating statewide designation recommendations did the U.S.D.A. Forest Service/Department of Agriculture provide the states? What factors explain the variation in the states’ nominations of National Forest lands for treatment? What are potential impediments for implementation to the new insect and disease provision?

To answer these questions, a qualitative approach was used in the research. This approach was chosen in order to understand the reasons behind the variation between state designation nominations and the rationales used to determine the locations of each designation, as well as each state’s expectations of collaboration (Dey, 1999).

To begin the study, those states that submitted nominations in 2014 needed to be determined. Using the U.S.D.A. Forest Service website <http://www.fs.fed.us/farmbill/areadesignations.shtml> the 35 states who
nominated land were identified and the nomination letters from each Governor were located.

At first, all states that had submitted nominations were contacted with the desire to interview as many states as possible. Interviews were set up with the few states that responded. Since only a few states responded, using the census method, states were prioritized based on location so as to achieve a greater breadth to the research, also permitting for better time use by allowing focused searches for contact information. States in the East, Mid-west and West were selected in order to have an equal representation across the country. Unique characteristics of a state and their nomination requests also determined why a state was selected for this research. States with large percentages of National Forest lands, those that had unique nomination requests (e.g., exceptionally lengthy or brief) and states that nominated entire national forests vs. those who only nominated a few watersheds, were all flagged as priority states to be included in the sample. Sampling was also affected by the ability to get in contact with a representative of that state.

In all, 16 interviews were conducted with representatives of the following states: Arkansas, Colorado, Georgia, Idaho, Minnesota, Missouri, Nevada, New Hampshire, North Carolina, Oregon, Pennsylvania, South Dakota, Texas, Utah, Vermont, and Wisconsin. An interview was also conducted with Thomas Tidwell, Chief of the U.S.D.A. Forest Service, to help further our understanding on the 2014 Farm Bill requirements for the new provision, the role of U.S. Forest Service in the
creation of the bill, what outcomes the U.S.D.A. Forest Service Washington D.C. office was expecting from the 2014 Farm Bill and his thoughts on the future of the bill. The contact information of the state foresters’ agencies was found for each state, with an expectation that the state forester had the information of those individuals that were directly involved in the nomination process. Each state was contacted at least three times via e-mail in an attempt to find individuals that would be willing to discuss their state’s land designation nomination process. Each individual interviewed was a state employee, federal employee or member of a state advisory committee. The interviews were semistructured to allow for a natural flow and flexibility in the conversation (Leahy & Anderson, 2010).

Each interview took no more than an hour, was conducted via conference call, and was usually held with a single individual. The North Carolina and Pennsylvania calls were exceptions, as they each had two respondents. There were two sets of interview prompts; one set for federal employees and one for state employees and state advisory committees. This was intentional, in an attempt to understand the different roles each entity played in the nomination process and their expectations on the use of this new authority. Table 3 shows the questions asked to both the federal and state employees, as well as the Chief of the U.S.D.A. Forest Service. The summary statistics of the states interviewed along with the other U.S.A. states that contain federal land are located in Appendix C.
Table 3

*Interview Questions for Federal Employees*

- What is your job title?
- What role did you play in the designation decision-making process?
- Why were you chosen to be the lead on the nominations/chosen to compile all needed information?
- Did you contact existing collaborative groups to assist in the designations?
- Who made the decision to use outside collaborative groups?
- What portion of the nominations came from the U.S.D.A. Forest Service and what came from the collaborative?
- How much participation did the U.S.D.A. Forest Service have in the creation of designations?
- What format did you follow in creating your proposal? Why did you format it the way you did?
- Why did you choose the designations you chose?
- More details on rationale and process?
- What further direction were you given by the U.S.D.A. Forest Service, Washington D.C. office to help you in creating your designations?
- Would more guidance have helped or did you like the freedom?
- Have you heard anything back from the U.S.D.A. Forest Service Washington
D.C. office? Were you expecting to?

- Did you take all designations or did you screen them in anyway?
- Have any projects been started using this new authority in your state by you or other regions in your state? What are they?
- When were you planning on starting new projects under this authority?
- Why do you think each state has varied in their nominations?
- Why do you think some states discuss their nominations in detail while others lack much substance?
- How could the designation process have gone better? Anything you would have done different looking back?
- Anything more you think we should know about the land designation process that we haven’t asked yet?
- Is there something you think I should have asked about but did not?
Table 4

*Interview Questions for State Employees*

<table>
<thead>
<tr>
<th>Question</th>
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<tbody>
<tr>
<td>• What is your job title?</td>
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<tr>
<td>• What role did you play in the designation decision-making process?</td>
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<td>• Why were you chosen to be the lead on the nominations/chosen to compile</td>
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<td>all needed information?</td>
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<td>• Did you contact existing collaborative groups to assist in the designations?</td>
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<td>• Who made the decision to use outside collaborative groups?</td>
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<td>• What portion of the nominations came from the U.S.D.A. Forest Service and what came from the collaboratives?</td>
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<tr>
<td>• How much participation did the U.S.D.A. Forest Service have in the creation of designations?</td>
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<tr>
<td>• What format did you follow in creating your proposal? Why did you format it the way you did?</td>
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<tr>
<td>• Why did you choose the designations you chose?</td>
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<tr>
<td>• More details on rationale and process?</td>
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<tr>
<td>• What further direction were you given by the U.S.D.A. Forest Service, Washington D.C. office to help you in creating your designations?</td>
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<td>• Would more guidance have helped or did you like the freedom?</td>
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<tr>
<td>• Have you heard anything back from the U.S.D.A. Forest Service Washington D.C. office? Were you expecting to?</td>
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</table>
• Did you take all designations or did you screen them in anyway?

• Have you heard of any projects that the U.S.D.A. Forest Service in your state is starting to work on? What are they?

• Why do you think each state has varied in their nominations?

• Why do you think some states discuss their nominations in detail while others lack much substance?

• How could the designation process have gone better? Anything you would have done different looking back?

• Anything more you think we should know about the land designation process that we haven’t asked yet?

• Is there something you think I should have asked about but did not?
Table 5

*Interview Questions for USFS Chief*

- Do you know the Congressional staffers that wrote the provision for insect and disease in the 2014 Farm Bill?
- What do you see as the potential of the insect and disease provision in the Farm bill?
- Why do you think that the bill required that each state's nomination be submitted through the governor's office, considering that it was a bill affecting National Forest lands? In other words, why didn't the bill just require the National Forests to submit the designations instead of having it go through the state office?
- What role did you play in getting this new provision in the new 2014 Farm Bill? Did the USFS provide testimony for the insect and disease provision?
- Why do you think the states varied in their approach to their nomination? Was that something you were expecting?
- Why do you think some states developed very detailed nominations while others lacked much substance?
- Why do you think the bill requires that the National Forests use collaborative groups in order to use the new insect and disease authorities?
- What was the benefit the Washington D.C. office anticipated by using collaborative groups to develop restoration/treatment projects?
• In what time frame was the Washington D.C. Office hoping to see projects started?

• Have you heard of any National Forests starting to use this new provision? What are they?

• What are the difficulties and challenges you are hearing from each NF?

• Will the Washington D.C. Office be sending out guidelines for using this new provision?

• Does it look like there will be future funding to assist NF’s in using this new provision?

• How does this change the NEPA process for the USFS?

• Do you think this new provision will speed up or slow down the NEPA process?

• What concerns have you heard from environmental groups?

All interviews were conducted and transcribed by the same individual. Interview responses were transcribed and examined for patterns of how states handled the nomination process. Key phrases that identify commonalities or differences between the states were reviewed and additional comments, made by each interviewee, assisted in determining the validity of the research questions. Interviews were organized based on how the state and U.S.D.A. Forest Service
cooperated with each other, to see what the variation was across the country and to see if that influenced attitudes held by states about using the new provision.
RESULTS

Since the late 1960s numerous bills and amendments have been passed to enhance natural resources management. However, it has been increasingly difficult to manage natural resources under such a stringent and rigid legal structure, in so much that there has been a push for new laws and provisions to be created so that natural resource managers are allowed the ability to act swiftly (Benson & Garmestani, 2011; Cutter, Mitchell, & Scott, 2000). Recent legislation has shown that Congress is beginning to recognize the difficulties that natural resource agencies have been fighting in dealing with the many urgent needs of forest health. The HFRA and the new insect and disease provision in the 2014 Farm Bill are prime examples of this recent recognition.

There is, however, one complication in creating new laws and provisions that allow accelerated response to natural resource issues. Congress will only continue to create new pathways if the current ones are effectively used. The sections that follow outline findings from this research designed to understand the process taken by each state, the reactions to the nomination process, and implications for future application of the new provision. I will discuss how each state cooperated with the U.S.D.A. Forest Service, the sources of confusion that led to variation among nominations, how each state saw the potential for use of the new provision, and the future political implications that emerge from the new provision.
State and Federal Cooperation

According to the 2014 Farm Bill, each state's nomination for land designation had to come through a letter from the Governor to the U.S.D.A Forest Service. However, each state was given no further directions as to who should choose the areas to designate, or how each state was to go about deciding which acres of National Forest lands should be designated. Because states do not typically have detailed National Forest Risk Assessment data, there was a need to involve the U.S.D.A. Forest Service in providing the need information. However, the state chose the amount of involvement the U.S.D.A. Forest Service had in the overall nomination process (Tidwell, 2014). There were states that used existing collaborative groups comprised of state, federal, and private agencies, while other states left it to the U.S.D.A. Forest Service to decide what should be designated and some designations were completely chosen by the state with little input from the U.S.D.A. Forest Service.

U.S.D.A. Forest Service Directed Nominations

From the states interviewed, the nomination process directed by the U.S.D.A. Forest Service, was the most common form used. In this process, all the nominations came directly from the U.S.D.A Forest Service with only minimal help from state
agencies. These states were: North Carolina, Georgia, New Hampshire, Vermont, and Minnesota.

When asked how much participation the U.S.D.A. Forest Service had in the creation of their designations, the interviewee from Vermont stated:

The people that know the lands the best are the people of the National Forest systems, so when they are interested in making designations it was appropriate to just review that to see if it made sense and then just pass it on.

The state was primarily used to confirm that the nominations given to them by the U.S.D.A. Forest Service were feasible and understandable.

North Carolina had similar things to say:

They took the recommendations that the Forest Service had for the National Forest service lands. The state was kind of a second level quality control. They reviewed everything we put together and then passed it on to the state forester and then to the Governor for his recommendation.

Both Minnesota and New Hampshire gave similar answers. The states’ involvement was purely that of an intermediary. There is a straightforward reason for this finding: state forestry agencies do not have detailed data or GIS layers on Forest Service lands and did not have the ability to prepare the nominations independently. The U.S.D.A. Forest Service prepared the nominations and then the state simply passed it on to the U.S.D.A. Forest Service Washington D.C. Office for
approval. In all of these cases, the state was used merely for quality control of the overall nomination and in creation of the document that would be sent by the Governor's Office to the Washington D.C. U.S.D.A. Forest Service.

Using Collaboration to Inform U.S.D.A. Forest Service Directed Nominations

Idaho, Arkansas, and Missouri used existing natural resource collaboration, but in a different way. They used collaborative groups to help lend support and give input as to areas that would receive the most benefit from the new provision. Idaho stated that, “it was for Idaho's best interest to bring collaboratives in early on to avoid future problems” (personal communication, October 6, 2014). They considered the early support of collaboratives as an important part for gaining overall public acceptance of the use of the new provision.

In Arkansas, the U.S.D.A. Forest Service first went to their districts to ask for nomination ideas and then went to their existing collaboratives for any further insight as to areas that should be designated, as well as for support for the areas already selected.

Missouri employed a similar approach: they worked primarily with the timber industries to help in choosing nominations, although the natural resource collaboratives in Missouri were informed of the process.

While Idaho, Arkansas, and Missouri involved important collaborative groups to help lead, inform, and support nominations and the use of the new
provision in their states, the overall decisions were made chiefly by U.S.D.A. Forest Service personnel.

**State Directed Nominations**

In some states, there was no collaboration between state and federal agencies. For example, when South Dakota was deciding what areas to nominate, the state chose the entire Black Hills National Forest before consulting with other agencies. When they did consult with the U.S.D.A. Forest Service, it was merely to receive its approval of the lands that the state had chosen to designate. The South Dakota State Forestry personnel said:

There was very little time to form a collaborative group, so we were very quick to review the requirements and I started to look at the data and the whole Black Hills was nominated. I contacted the Forest Service and talked to them about designating the entire Black Hills and they said that we can designate the entire area....Originally we thought we had two weeks to turn it around (personal communication, October 21, 2014).

The short amount of time seemed to be the driving force behind getting the nominations completed, and then going back and creating more specific designations later.

Georgia asked the U.S.D.A. Forest Service for information prior to making nomination decisions; however, they only asked for the data and information
necessary to assist the state in determining what areas were to be nominated.

When asked what role the U.S.D.A. Forest Service played in Georgia during the nomination process, they stated:

We had information that the state needed and we provided that to them. We were clarifying the direction that came from the Washington D.C. Office. We didn’t do the nominations; we provided the information for the nominations, but not the nominations themselves (personal communication, October 27, 2014).

Here we can see that though the U.S.D.A. Forest Service was involved, it was not directly involved in what areas were to be designated. Both states took charge of the nomination process that could have potential impact on future projects in their National Forest lands, showing initiative and desire to be directly involved with future management decisions in their states.

**Using Collaboration to Inform State-Directed Nominations**

The process in Colorado and Pennsylvania was directed strongly by the state, but when it came to the nomination of lands in each state, they called on existing collaborative groups in their states to help inform and give feedback about the new provision. Colorado stated:
We have a standing and very robust forest collaborative. So when this [2014 Farm Bill] came out we immediately contacted our collaboratives to ask their thought and feedback (personal communication, November 17, 2014).

Using collaboratives for feedback was a primary reaction by the state of Colorado when an issue pertaining to forest health arose.

Pennsylvania acted similarly:

In Pennsylvania, we have what is called the Forest Pest Task Force, which is a combination of several state and federal agencies along with Penn State and I reached out to them...to explain what we were going to be doing and asked for input and information as far as statistics or recommendations that the task force might have, then I moved forward with discussions [the Department of Conservation and Natural Resources]...in deciding on how we would move forward in that process (personal communication, December 2, 2014).

Collaborative groups, though not the main decision-makers, were key players for these states in informing what areas should be designated. However, the actual nominations came from the states themselves.
Collaboration-Directed Nominations

Though many states used a form of cooperation between the state forestry agency and the U.S.D.A. Forest Service, only a few states (WI and OR) went beyond that and incorporated the knowledge of existing state advisory committees and collaborative groups to inform their decision on which areas should be nominated. In Wisconsin, an advisory committee was legislatively created in 2002 to assist the Governor in issues related to forestry. The committee consisted of individuals representing urban forestry, labor, lumber industries, conservation education, conservation organizations, Wisconsin state forestry, pulp and paper industry, U.S.D.A. Forest Service, timber productions, etc. This group was tasked with determining what areas should be designated based on the collective group knowledge and the local knowledge each individual brought to the table. This was how Wisconsin described their process:

What we did was use a document that was put out by [the] forest health enterprise team and what that team did was ID all these watersheds that were eligible to be designated under this new farm bill. Then, between our state forester and forest supervisor and, between the U.S.D.A. Forest Service maps and the state forests knowledge on the ground we were able to take a look at all those watersheds and go through and designate because of all the knowledge the people have of those areas and decided of those which needed attention (personal communication, November 21, 2014).
Oregon used a similar committee, called the Federal Forest Working Group, to determine which areas should be designated. The group was directed by a state forestry representative instead of a chairman from a non-profit organization, like Wisconsin.

**50/50 Control**

The final designation process involved both federal and state agencies cooperating together to determine the best areas to be designated. Texas described their process in working with the state:

> We were working hand-in-hand with the Texas Forest Service to develop our focus....With the state, its concerns were that as spots get on U.S.D.A. Forest Service lands...it would go onto private land....We worked with the state and ran some GIS maps....So our focus was to highlight the areas to reduce the hazards along private landlines (personal communication, November 21, 2014).

Their involvement with the state was essential to choose those areas that were priorities for nomination.

Utah and Nevada showed similar reactions to the nomination process. Utah had a small cooperative of state and U.S.D.A. Forest Service personnel that worked together to decide what land was essential for nomination and only designated a
tiny acreage. In Nevada, different state and federal agencies brought information and project areas that would receive potential benefit from being nominated. This is how Nevada explained their process:

It was a collaborative role. We had three or four staff from our [state] agency that brought different info and knowledge and met with the Forest Supervisor of the Humboldt and his staff....Everyone brought to the table things that they thought would be viable projects to submit (personal communication, November 6, 2014).

Every state received a letter informing them of the new provision and the opportunity to nominate insect and diseased acres in their state. The letter also stated that each state had control over how they could involve the local U.S.D.A. Forest Service in determining the areas to be nominated (Tidwell, 2014).

Table 6 shows that 7 out of the 16 states interviewed elected to let the local U.S.D.A. Forest Service in their states take the lead, while four states decided to receive minimal help, and the rest of the states used a variation of approaches using the U.S.D.A. Forest Service. The reasons for variation stem from how each state interpreted the information they received from the U.S.D.A. Forest Service Washington D.C. office, what agency each state thought should be the leader, and the existing institutional framework in the state.
Table 6

<table>
<thead>
<tr>
<th>Type of Cooperation</th>
<th>States</th>
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<tr>
<td>Federally Directed</td>
<td>NC, NH, VT, &amp; M</td>
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<tr>
<td>Federal Hybrid</td>
<td>AR, ID, MO</td>
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<tr>
<td>State Directed</td>
<td>SD &amp; GA</td>
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<tr>
<td>State Hybrid</td>
<td>CO &amp; PA</td>
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<tr>
<td>Collaborative</td>
<td>WI &amp; OR</td>
</tr>
<tr>
<td>50/50</td>
<td>NV, TX, &amp; UT</td>
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Sources of Confusion

The interviews reveal considerable confusion about the nomination process and how and when the new authority was to be used. The vagueness of the Bill left a lot up to personal interpretation. Even though there were a few conference calls with the U.S.D.A. Forest Service, Washington D.C. office to help clarify, states were still left unaware as to how to proceed.

Time to Respond

The states were given 60 days to respond, however some states, like Minnesota, were not informed that the bill had passed and that they were required to submit a nomination:
We did not know about all this until very much later than some of the people discussing it at the top or in the very beginning. It was like all these things were in place and then all of a sudden it came to our attention... a lot more time would have been better because I felt like I was pouncing on the National Forests as well, and there was no time for discussion (personal communication, November 25, 2014).

Utah felt that the 60 days was constricting because of participants’ tight schedules. This made it hard to meet to discuss the nomination options. They, like Minnesota, were caught unaware by this nomination:

The problem was with everyone’s busy schedule; it was hard to get meetings within the 60-day period. It caught us off guard because we didn’t think it [insect and disease provision] would come through with the Farm Bill (personal communication, November 19, 2014).

Others, like Georgia, felt that the 60 days was not enough to coordinate with everyone that needed to be involved or should have been involved:

...[W]e didn’t have enough time. If you look at the turn around that came out, it was really about a month and a half that the Governors were asked to reply. I would have recommended a collaborative process, but there just wasn’t enough time (personal communication, October 27, 2014).
The state of Washington refrained from submitting a nomination for reasons of time as well. The nomination letter from the Governor of the State of Washington stated:

Forest health is an incredibly important issue here in the State of Washington and addressing forest health issues is a priority of my administration. It is so important that I have chosen to extend the time of deliberation and convene a stakeholder group for additional discussion and review. I am committed to taking the time necessary to do this right. I will send a letter requesting designation of insect and disease treatment areas, as reviewed by our Department of Natural Resources, our State Forester and our stakeholder group, to you for consideration at a date in the near future (Inslee, 2014, p. 1).

Washington wanted the time to create a nomination that would benefit their National Forests and would be the outcome of a well thought-out process. They did not want something that was rushed and could possibly impede the use of the new provision in their state. However, not submitting a nomination did not hinder their future opportunity to create a nomination.

While some of the states felt that the time frame given was limiting, there were states, like Texas, that were watching and waiting for the 2014 Farm Bill so they could act on it quickly.
I think it helped that we were watching real close and picked up on the provision and chewed on it for quite a while, giving us time to work through the different levels of difficulty, like working with the Governor’s office (personal communication, November 21, 2014).

As the interviewee from Texas said, being prepared for the 2014 Farm Bill allowed them to prepare for the possible barriers that could hinder the nomination process. It gave them the time they needed to work through confusions.

Though some states, Colorado and Vermont, were not waiting for the 2014 Farm Bill to be signed into law; however, they took on the nomination process with simplicity. When asked about the nomination process Colorado said, “...It was not unlike a dozen of things we do every day. It wasn’t a major project on our end” (personal communication, November 17, 2014). Vermont said similar things, “[The nomination process] was very simple, and so we didn’t want to make it more complicated than it was in our state” (personal communication, November 18, 2014).

Though some states, such as Vermont, Texas, and Colorado, seemed to confront the nomination process with ease, other states, like Utah, Georgia, and Minnesota, found it difficult to complete the process in the time allotted. They would have liked more time to discuss the nominations, work together with other important players, and present a nomination that was well thought-out and presented.
Limited Guidance

When interviewed about the additional direction given them by the U.S.D.A. Forest Service, Washington D.C. office, states said they were given only clarifying answers to the bill, but no direct guidance to how they were to proceed. When North Carolina was asked about what further direction they received, they stated:

The call from the Washington D.C. Office was more of an overview not anything down in the weeds on how they wanted everything outlined, it was more about the Bill, when things had to happen, making sure that the areas that we chose meet the three criteria, and making sure we were working with the state and forest health. It was more of clarification (personal communication, December 1, 2014).

Arkansas said, “There was a memo or letter that came out so there was that direction, but there was no absolute direction” (personal communication, October 30, 2014). And when the direction was given it was given toward the end of the nomination period, giving states little time to use the newly available resource.

Texas said:

The direction we received from the Washington D.C. Office, we received towards the end of the deadline....I think for me personally it would have been nice [to have more guidance], but I was going ahead anyway. Some of the other forests didn’t realize the opportunity as quickly so they probably
would have liked some more direction. Some forests didn’t even know the opportunity was available (personal communication, November 21, 2014).

Idaho also confronted confusion due to a lack of direction in the early period of the nomination process.

There were some phone calls later down the line, but...there was a sense of confusion across the board and I think that other direction earlier on would have benefited everyone because every forest service region operates a little differently, more direction would have been a little bit more helpful to smooth out the process (personal communication, October 16, 2014).

Utah was told that no further guidance would be given, causing them to lose time due to confusion.

One of the reasons we got off to a rocky start is because we were expecting some guidance. After two or three weeks into this we had a teleconference and were told that no more guidance was coming out (personal communication, October 28, 2014).

Wisconsin, though not receiving all the direction they had wanted, looked at the situation in a different light.

Sometime you just have to take the bull by the horns and get the job done.

We had enough information to move forward....In the beginning there was a little bit of guesswork and we tried to gather more information....We waited a
little bit and got as much info as we could from D.C. and after that just started to go to work with what we had (personal communication, November 21, 2014).

The lack of guidance did not stop states from submitting nominations; however, it did take time away from each state due to the confusion that ensued. Having more time to deal with this issue of clarification would have been helpful. The combination of quick turn around and little guidance appears to have been a major reason for variation among the state nominations.

**Potential for Application of the Provision**

Each state read the new insect and disease provision and its potential to expedite management in a different light. Some saw it as a tool for quick action when needed, some were caught unaware by the lack of new funding and didn’t have much confidence in its usefulness, and others had no new plans to use it because of abundant pre-existing insect and disease projects that had already undergone NEPA analysis.

During the interviews, it was evident that few states had developed plans to implement the new provision in their national forests. Only one state, Idaho, had commenced the collaborative process required to use the new CE. Another, Wisconsin, was waiting to receive some form of guidance documentation for
implementation before they started using the new provision, while other states expressed intentions to use the new provision if and when a new insect or disease threat arose in their state.

Texas was quoted saying:

We might consider [using the new provision] if another pest threat emerges....It will definitely speed up the process when a problem does arise. This will allow us to respond...we don’t anticipate using the CE first, but it will help us implement hazard reduction projects in the future....We will be able to take action on the areas we have identified fairly quickly (personal communication, November 21, 2014).

New Hampshire, having no current insect or disease issues wanted to take a proactive approach. They submitted a nomination so that if an insect or disease issue ever did arise, they would be ready. New Hampshire was very adamant as to the reasons why they submitted a nomination:

We are trying to be pro-active, you know the worst has not yet happened in our state, unlike other places where the worst is happening so that is kind of the difference....We were definitely positioning ourselves for whatever comes in the future (personal communication, November 19, 2014).

The use of the new provision in many states was contingent on the availability of money. They went through the process of nominating areas in their
state, but did not foresee utilizing it because Congress did not appropriate additional funds to accompany the new CE authority. Colorado elaborated:

So they explicitly said all we are doing at this point is getting designations and then whether or not we can perform any projects is whether or not that million dollars gets appropriated and I don’t think it ever did....This was a zero, so we went through the hoops but no money was appropriated. So expedited projects never came to be....We sort of knew that was going to happen so...we were just trying to make designations (personal communication, November 21, 2014).

Despite Texas’ earlier statement about using the provision if future concerns arise, the use of the provision was also contingent upon future funding, “...until we receive potential funding through the Farm Bill, we haven’t’ really started implementing any of the major projects that the [state] and us are working together on” (personal communication, November 21, 2014).

In the end, other states, such as North Carolina, Georgia, and Oregon, simply had too many projects already underway. Many of the existing projects had already gone through the regular NEPA process, and took priority. Adding additional projects would be too time consuming, and divert resources and attention from higher priority projects. North Carolina stated:

There is no stipulation for us using it right now. We have other things on our plate right now that is keeping us from starting some larger project. There is
nothing keeping us from using it, other than proposals and other work that is being done (personal communication, December 1, 2014).

Oregon also had existing collaborative groups that were dealing with insect and disease issues and didn’t want to take away from the ongoing work. “We don’t want this to detract from our collaborative energy.... We want to support our collaboratives rather than redirect them” (personal communication, November 7, 2014).

From these quotes we can see that the implementation of the new provision may be slow. It faces many obstacles that may hinder the provision’s extension beyond the 2018 expiration that Congress attached to the new authority. The lack of guidance from the Washington D.C. office may be a major reason why so many states have yet to create projects using this new authority. Understanding how states feel about this new provision can shed light on the potential for future corrections in the provision stipulations, and help the U.S.D.A. Forest Service Washington D.C. Office in directing and encouraging the use of this new provision.

**Innovation in Policy Evolution**

The Healthy Forest Restoration Act was a Congressional effort to allow natural resource managers, with aid from the public, to address wildfire risk more rapidly than would otherwise be the case. This was an important precedent for
additional Congressional policies that would allow for other natural resource issues to receive the expedited action. The new insect and disease provision in the 2014 Farm Bill continued this strategy. An interview with the Thomas Tidwell, Chief of the Forest Service, highlighted this Congressional paradigm. “[The provision] was more driven by [Congressional] recognition that we needed to respond more quickly to these situations” (personal communication, December 11, 2014).

To many, this new provision is seen as something that will allow for natural resource managers to attack the problems when they arise and not three or four years down the road, when many management options may have been foreclosed. Pennsylvania felt strongly about the benefits of this new provision:

It will definitely speed up the process when a problem does arise. This will allow us to respond. If we had to wait for the normal review process, the bug damage could be done before the review was done. We can respond very quickly if the issue arises (personal communication, December 2, 2014).

New Hampshire saw this new provision as a way to move past some very time consuming barriers:

We looked at it as a serious opportunity that we wanted to take advantage of. It was an opportunity to...position ourselves to take advantage of authorities that we might need and to clear some bureaucratic hurdles. It was like ‘here is a magic wand that would wrap it all up for us’ and...in some respect, it
drove why we saw this as an advantage (personal communication, November 19, 2014).

The new provision opens the door for a less time-consuming management decision-making process, allowing for insect and disease issues to receive the attention they need when it is needed and not several years after the damage has been done.

**Use It or Lose It**

One thing that was distinctly evident in the interview with the Chief Tidwell, U.S.D.A. Forest Service Chief, was the necessity to use this new provision effectively or it would not be extended. In the 2014 Farm Bill, there was a deadline: all CE-supported projects had to be nominated on or before September 2018. When Chief Tidwell was asked if the new provision would be extended, he said:

> It will, if we can demonstrate if it is helpful and if it is making a difference. We will have to demonstrate that we are using this authority and that through the use of it we have been able to improve forest health and reduce the level of disease and insect outbreaks. Also, be able to show that by using this authority we were more quickly able to move in, do our analysis, make a decision on what kind of treatment needs to be done and move in on it (personal communication, December 11, 2014).
This new provision shows innovation in policy by Congress and shows that Congress is becoming more aware of the need for faster management. Although, it does seem that the renewal of the new provision is possibly threatened by the lack of use among the states. If the new provision is not used on a broader scale across the country, there is a potential threat to its continual existence. Chief Tidwell also stated in his interview that he has testified at countless hearings for the need for other policies beyond HEFR that allow for action and efficiency, but it is quite possible that the lack of use of this new provision will diminish the interest Congress has in creating future policies (personal communication, December 11, 2014).
DISCUSSION

The NEPA process is slow and cumbersome. It takes many weeks, months, and even years to produce a NEPA ready project. The new insect and disease provision was created to help bypass some of the tediousness of NEPA. This would allow for management action to be taken when it would be most beneficial to forest health. However, due to the variation in the nomination process and the confusion that was associated with the creation and implementation of the new process, the potential for use seems dismal.

The way states choose to work together, the amount of time given to respond, and the lack of information that was given to assist in the nomination making process, all factor into the poor prospects that the insect and disease provision will be put into action anytime soon in the states that were interviewed. Though all the states that were interviewed submitted nominations, many of those interviewed expressed a sense of futility about the implementation of this new provision in their states. Some blamed it on the fact that there was no money allocated for the use of the new provision, others didn’t want to disrupt already existing dynamics in their state, and some already had too many existing projects to focus on and the prospect of creating new ones was overwhelming. Only a few states (Idaho and Wisconsin) saw this new provision as a chance to make an immediate difference in their state.
In the interview with Chief Tidwell, he foresaw the new provision being implemented across the country in 2016, but due to the lack of enthusiasm and optimism from many of the states interviewed, this could make it unlikely that many projects would be created in the time frame that Chief Tidwell was expecting. It seems that this is due to the confusion that came from the nomination process. Because states did not completely understand how they were to cooperate with the U.S.D.A. Forest Service, why areas should be nominated, and how the new authority was to be used, this confusion may keep states from pursuing an avenue that could potentially lighten the load of cumbersome NEPA work.

**Conclusion**

The intent of this research was to understand the process each state used in creating their land designation recommendations, what kind of direction each state received from the Washington D.C. office, the factors that explained the nomination variation between each state’s nomination of National Forest lands for treatment, and potential impediments in implementing the new insect and disease provision. It was found that state’s processes varied, depending on previous work history between state and federal agencies and existing collaborative groups. The short turnaround time and lack of clear guidance from the U.S.D.A. Forest Service Washington D.C. office in determining designations and how states should have work together, increased the variation between the states’ nomination processes.
States did not know which agencies were to be included, and the pressure created by the 60-day deadline often kept them from involving all groups they felt should ideally be part of the process.

After all the nominations were submitted, there are still impediments to the implementation of the new insect and disease provision in many states. As of today, the only projects being prepared using the new CE authority is underway in northern Idaho. Other states were waiting until a new insect or disease issue arose, many were focused on the money Congress did not appropriate for this new provision, and some were already too engaged in other projects to consider creating new ones at this time.

However, this new provision shows that Congress is aware of the need for rapid management of the country's natural resources, despite all the setbacks this new provision faces. If the provision is implemented and Congress sees that it is serving its intended purpose, it may stimulate efforts for natural resource managers to act quickly on other issues that need immediate attention.

This new provision also opens doors for potential conflict management within states that desire to transfer federal land to state control. It allows for states to be directly involved in how the federal land is to be managed, giving states a sense of power and control that they feel has been taken from them, without directly taking land from the U.S.D.A Forest Service. Firstly, the Governor decides what should be nominated; this gives states say as to what areas should be managed and
gives states power over federal land decisions. Secondly, the provision requires that collaboration be used in developing restoration actions. This again gives states additional opportunities to be directly involved in how federal lands are managed. This sort of provision may be an answer to the issue of state unrest.

If future policies require state and federal cooperation, we recommend that clear and concise direction be given to all the parties. Adequate time should be allowed so all parties that need to be involved can come together and discuss the issues in a way that allows them to make thoughtful decisions. Questions and concerns should be addressed at the beginning of the nomination decision-making process and not near the deadline. The intention for the insect and disease provision and what the U.S.D.A Forest Service, Washington D.C. office has envisioned from the new provision should be communicated to the relevant parties. It should also be known upfront whether or not money will be appropriated for implementing the new provision.

Further research should be done to see how the collaboration required as part of the new CE will impact the speed and quality of the management decisions for insect and disease areas of the national forest lands. This will also show if new collaborative processes can be effectively created in a reasonable time frame, allowing for the successful implementation of projects.
REFERENCES


APPENDICES
Appendix A. 2014 Farm Bill Insect and Disease Provision
SEC. 8204. INSECT AND DISEASE INFESTATION.

Title VI of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591 et seq.) is amended by adding at the end the following:

“SEC. 602. DESIGNATION OF TREATMENT AREAS.

“(a) DEFINITION OF DECLINING FOREST HEALTH.—In this section, the term ‘declining forest health’ means a forest that is experiencing—

“(1) substantially increased tree mortality due to insect or disease infestation; or

“(2) dieback due to infestation or defoliation by insects or disease.

“(b) DESIGNATION OF TREATMENT AREAS.—

“(1) INITIAL AREAS.—Not later than 60 days after the date of enactment of the Agricultural Act of 2014, the Secretary shall, if requested by the Governor of the State, designate as part of an insect and disease treatment program 1 or more landscape-scale areas, such as subwatersheds (sixth-level hydrologic units, according to the System of Hydrologic Unit Codes of the United States Geological Survey), in at least 1 national forest in each State that is experiencing an insect or disease epidemic.
“(2) ADDITIONAL AREAS.—After the end of the 60-day period described in paragraph (1), the Secretary may designate additional landscape-scale areas under this section as needed to address insect or disease threats. H. R. 2642—268

“(c) REQUIREMENTS.—To be designated a landscape-scale area under subsection (b), the area shall be—

“(1) experiencing declining forest health, based on annual forest health surveys conducted by the Secretary;

“(2) at risk of experiencing substantially increased tree mortality over the next 15 years due to insect or disease infestation, based on the most recent National Insect and Disease Risk Map published by the Forest Service; or

“(3) in an area in which the risk of hazard trees poses an imminent risk to public infrastructure, health, or safety.

“(d) TREATMENT OF AREAS.—

“(1) IN GENERAL.—The Secretary may carry out priority projects on Federal land in the areas designated under subsection (b) to reduce the risk or extent of, or increase the resilience to, insect or disease infestation in the areas.

“(2) AUTHORITY.—Any project under paragraph (1) for which a public notice to initiate scoping is issued on or before
September 30, 2018, may be carried out in accordance with subsections (b), (c), and (d) of section 102, and sections 104, 105, and 106.

“(3) EFFECT.—Projects carried out under this subsection shall be considered authorized hazardous fuel reduction projects for purposes of the authorities described in paragraph (2).

“(4) REPORT.—

“(A) IN GENERAL.—In accordance with the schedule described in subparagraph (B), the Secretary shall issue 2 reports on actions taken to carry out this subsection, including—

“(i) an evaluation of the progress towards project goals; and

“(ii) recommendations for modifications to the projects and management treatments.

“(B) SCHEDULE.—The Secretary shall—

“(i) not earlier than September 30, 2018, issue the initial report under subparagraph (A); and

“(ii) not earlier than September 30, 2024, issue the second report under that subparagraph.

“(e) TREE RETENTION.—The Secretary shall carry out projects
under subsection (d) in a manner that maximizes the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2014 through 2024.

“SEC. 603. ADMINISTRATIVE REVIEW.

“(a) IN GENERAL.—Except as provided in subsection (d), a project described in subsection (b) that is conducted in accordance with section 602(d) may be—

“(1) considered an action categorically excluded from the requirements of Public Law 91–190 (42 U.S.C. 4321 et seq.);

and

“(2) exempt from the special administrative review process under section 105.

“(b) COLLABORATIVE RESTORATION PROJECT.—H. R. 2642—269

“(1) IN GENERAL.—A project referred to in subsection (a) is a project to carry out forest restoration treatments that—

“(A) maximizes the retention of old-growth and large
trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease;

“(B) considers the best available scientific information to maintain or restore the ecological integrity, including maintaining or restoring structure, function, composition, and connectivity; and

“(C) is developed and implemented through a collaborative process that—

“(i) includes multiple interested persons representing diverse interests; and

“(ii)(I) is transparent and nonexclusive; or

“(II) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125).

“(2) INCLUSION.—A project under this subsection may carry out part of a proposal that complies with the eligibility requirements of the Collaborative Forest Landscape Restoration Program under section 4003(b) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303(b)).
“(c) LIMITATIONS.—

“(1) PROJECT SIZE.—A project under this section may not exceed 3000 acres.

“(2) LOCATION.—A project under this section shall be limited to areas—

“(A) in the wildland-urban interface; or

“(B) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland-urban interface.

“(3) ROADS.—

“(A) PERMANENT ROADS.—

“(i) PROHIBITION ON ESTABLISHMENT.—A project under this section shall not include the establishment of permanent roads.

“(ii) EXISTING ROADS.—The Secretary may carry out necessary maintenance and repairs on existing permanent roads for the purposes of this section.

“(B) TEMPORARY ROADS.—The Secretary shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed.

“(d) EXCLUSIONS.—This section does not apply to—
“(1) a component of the National Wilderness Preservation System;

“(2) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;

“(3) a congressionally designated wilderness study area; or

“(4) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

“(e) FOREST MANAGEMENT PLANS.—All projects and activities carried out under this section shall be consistent with the land and resource management plan established under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) for the unit of the National Forest System containing the projects and activities.

“(f) PUBLIC NOTICE AND SCOPING.—The Secretary shall conduct public notice and scoping for any project or action proposed in accordance with this section.

“(g) ACCOUNTABILITY.—

“(1) IN GENERAL.—The Secretary shall prepare an annual
report on the use of categorical exclusions under this section that includes a description of all acres (or other appropriate unit) treated through projects carried out under this section.

“(2) SUBMISSION.—Not later than 1 year after the date of enactment of this section, and each year thereafter, the Secretary shall submit the reports required under paragraph (1) to—

“(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

“(B) the Committee on Environment and Public Works of the Senate;

“(C) the Committee on Agriculture of the House of Representatives;

“(D) the Committee on Natural Resources of the House of Representatives; and

“(E) the Government Accountability Office.”.
Appendix B. Chief Thomas Tidwell’s Letter to all Governors
Dear Governor___________:

On February 7, President Obama signed into law the Agricultural Act of 2014, better known as the 2014 Farm Bill. This five-year legislation has many authorities and provisions that will assist us greatly in accomplishing the agency mission, particularly in those areas where we have focused our highest priority work: ecological restoration, support to communities, and reducing the risk of wildfires. Among the provisions that pertain to the Forest Service, the Farm Bill includes an important provision for addressing insect and disease infestations.

Section 8204 of the Agriculture Act of 2014 states, "Not later than 60 days after the date of enactment of the Agriculture Act of 2014, the Secretary shall, if requested by the Governor of the State, designate...one or more landscape-scale areas...in at least one national forest in each State that is experiencing an insect or disease epidemic." After the end of the 60-day period, the Secretary may designate additional areas as needed to address insect or disease threats.

This letter is to inform you of the opportunity for requesting insect and disease area designations in your State. The Secretary of Agriculture has delegated his authority to the Forest Service for reviewing and approving insect and disease area designations consistent with the Agriculture Act of 2014. The Forest Service is available to work with your office to provide information in helping you identify
areas for designation. I encourage you and your staff to reach out to local Forest Service offices as you see fit.

In accordance with the Act, requests are due on or before April 8, 2014. The Forest Service will work diligently to review your requests and make insect and disease area designations based on the criteria outlined in the Farm Bill. The insect and disease area designation(s) made in your State will be communicated to your office through a letter from the Forest Service.

Please submit your requests in writing to Tony Tooke at the U.S. Forest Service. You may contact Tony with any questions at (202) 365-5648 or by email at ttooke@fs.fed.us.gov

Sincerely,

THOMAS L. TIDWELL Chief
Appendix C. Summary Statistics of Each State with Federal Land
Summary Statistics of Each State with Federal Land

<table>
<thead>
<tr>
<th>state</th>
<th># of National Forests</th>
<th>Acres of U.S.F.S. Land (including grasslands)</th>
<th>Date Nomination was Submitted</th>
<th>Acres Nominated by Each State</th>
<th>% of U.S.F.S. Land Nominated Per State</th>
<th>Personel Interviewed (State, Federal, or Private)</th>
</tr>
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<tr>
<td>Alabama</td>
<td>2</td>
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<td>532,046</td>
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<td>Arizona</td>
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<td>2</td>
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<td>1,425,682</td>
<td>55% Federal</td>
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<td>California</td>
<td>5</td>
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<td>1,508,929</td>
<td>7%</td>
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<td>Colorado</td>
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<td>14,520,965</td>
<td>7-Apr-14</td>
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<td>Florida</td>
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<td>8-Apr-14</td>
<td>197,654</td>
<td>17%</td>
<td></td>
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<tr>
<td>Georgia</td>
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<td>867,199</td>
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<td>708,771</td>
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<tr>
<td>Idaho</td>
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<td>20,465,014</td>
<td>28-Mar-14</td>
<td>1,708,628</td>
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</tr>
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<td>Illinois</td>
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<tr>
<td>Indiana</td>
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<td>202,842</td>
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<tr>
<td>Kentucky</td>
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<td>814,045</td>
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<td>369,447</td>
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<tr>
<td>Louisiana</td>
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<td>604,373</td>
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<td>574,528</td>
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<td>Maine</td>
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<td>53,709</td>
<td>No Response</td>
<td>0</td>
<td>0%</td>
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</tr>
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<td>Michigan</td>
<td>2</td>
<td>2,875,957</td>
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<td>1,270,100</td>
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<td>Minnesota</td>
<td>2</td>
<td>2,841,630</td>
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<td>1,820,800</td>
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<td>1,173,898</td>
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<td>26,795</td>
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<td>1,081,629</td>
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<tr>
<td>Nevada</td>
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<td>New York</td>
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<td>8-Apr-14</td>
<td>16,352</td>
<td>101%</td>
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<td>North Carolina</td>
<td>4</td>
<td>1,255,614</td>
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<td>701,863</td>
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<td>North Dakota</td>
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<td>1,106,034</td>
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<td>0</td>
<td>0%</td>
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<tr>
<td>Ohio</td>
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<td>241,300</td>
<td>No Response</td>
<td>0</td>
<td>0%</td>
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<tr>
<td>Oklahoma</td>
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<td>400,928</td>
<td>17-Apr-14</td>
<td>50,487</td>
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<tr>
<td>Oregon</td>
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<td>15,687,556</td>
<td>4-Apr-14</td>
<td>4,330,233</td>
<td>28% State</td>
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<tr>
<td>Pennsylvania</td>
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<td>513,418</td>
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<td>504,627</td>
<td>98% State</td>
<td></td>
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<tr>
<td>Puerto Rico</td>
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<td>28,435</td>
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<td>South Carolina</td>
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<td>630,741</td>
<td>8-Apr-14</td>
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<td>South Dakota</td>
<td>2</td>
<td>2,017,435</td>
<td>28-Feb-14</td>
<td>992,080</td>
<td>49% State</td>
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<td>Tennessee</td>
<td>1</td>
<td>718,019</td>
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<tr>
<td>Texas</td>
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<td>Utah</td>
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<tr>
<td>Vermont</td>
<td>1</td>
<td>399,565</td>
<td>1-May-14</td>
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<td>Virginia</td>
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<td>1,664,467</td>
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<tr>
<td>Washington</td>
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<td>0%</td>
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<tr>
<td>West Virginia</td>
<td>1</td>
<td>1,043,794</td>
<td>7-Apr-14</td>
<td>804,376</td>
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<td>Wisconsin</td>
<td>1</td>
<td>1,533,517</td>
<td>7-Apr-14</td>
<td>185,603</td>
<td>12% Private</td>
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<tr>
<td>Wyoming</td>
<td>6</td>
<td>9,241,610</td>
<td>8-Apr-14</td>
<td>1,518,341</td>
<td>16%</td>
<td></td>
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<tr>
<td>Total</td>
<td>192,801,074</td>
<td>45,682,721</td>
<td></td>
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</tr>
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</table>

The states in bold are those that were interviewed. Information adapted from Gorte et al. 2012; Personal communication with Smalls 2015; http://www.fs.fed.us/recreation/map/state_list.shtml; http://www.fs.fed.us/farmbill/areadesignations.shtml. Both National Grassland
and National Forest are included in the estimate of U.S.D.A. Forest Service land each state contains, which is why it may seem like the amount of acres in each state seem inflated and why a state with no National Forest can still have U.S.D.A. Forest Service land. Because National Forest cross state lines it is difficult to estimate how many acres of U.S.D.A. Forest Service land each state contains. The most recent documentation available was used.