FOREST RESOURCES ASSOCIATION, INC.

Issue Update

CONFRONTING OVERREGULATION

Overregulation at the federal level is blocking forest managers from helping forests and forest-based communities to grow and thrive.

Three major issues demonstrate these impacts.

October 2015
Forest Resources Association Inc.

Problem: Federal overregulation of U.S. forest operations has expanded greatly over the past several decades, and especially over the past five years. At best it adds needless overhead to landowners' and land managers' costs in project design. At worst, overregulation obstructs forest management altogether, driving landowners to convert their forestland to other uses and distressing forest-based communities.

Solution: The Regulatory Accountability Act (HR 185, S 2006), passed in the House 250-175 and now awaiting action in the Senate, would update the 70-year-old federal regulatory process, setting accountability requirements for those regulatory proposals imposing greatest costs on society, calling for on-the-record administrative hearings for the most costly regulations, and providing for more rigorous tests for the government to meet in legal challenges.

Overregulated: Northern Long-Eared Bat Protection

The U.S. Fish & Wildlife Service's "threatened" listing of the Northern Long-Eared Bat, effective since May 4, 2015, imposes large "no-management" zones around trees and caves and severely burdens landowners (especially the small, private landowners that dominate the 38-state Bat habitat area). This approach threatens forest practices that have historically benefitted bat populations.

The federal regulatory process continues to focus Endangered Species Act policy on *habitat control* rather than, in this case, focusing on *White-Nose Syndrome*, the acknowledged cause of the Bat's decline.

Overregulated: Waters of the United States

EPA's Final "Waters of the United States" rule establishes an open-ended regulatory authority for EPA to challenge land managers' determinations of which streams on forest- and farm lands may fall within EPA's regulatory jurisdiction and leaves vague such distinctions as "intermittent" vs. "ephemeral" streams. The effect is to discourage operations by creating delays and increasing uncertainty in project planning.

The approach of the Senate's Federal Water Quality Protection Act (S 1140) is constructive: requiring EPA to withdraw the rule and to repropose it with consideration of small business impacts, stipulating rulemaking procedures, and providing legislative guidance on designating certain waters.

Overregulated: "Carbon Neutrality" in Biomass Carbon Accounting

EPA's Final Clean Power Plan, setting carbon emissions limits for electric utilities, imposes rules on carbon accounting for biomass-generated energy that fail to acknowledge the carbon benefits of forest based biomass energy. Instead, EPA prefers imposing strict reporting, tracking, and verification requirements on various types of biomass feedstocks—in essence creating barriers on the use of this carbon-neutral, renewable material.

The concept of biomass carbon neutrality lies at the heart of our industry's sustainability commitment. EPA can and must forge a clear, simple, realistic, and consistent policy that recognizes the environmental and economic benefits of biomass energy.

1901 Pennsylvania Avenue, NW, Suite 303, Washington, DC 20006 • ph 202/296-3937 • fx 202/296-0562 • www.forestresources.org