

107TH CONGRESS
2^D SESSION

H. R. 5358

To ensure that funds made available to implement the National Fire Plan on National Forest System lands and other public lands are used to reduce the threat of catastrophic wildfire in the wildland-urban interface, to support community and private land wildfire control efforts, to require that receipts generated from hazardous fuels reduction projects are returned to the Treasury, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2002

Mr. INSLEE (for himself, Mr. BLUMENAUER, and Ms. SOLIS) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that funds made available to implement the National Fire Plan on National Forest System lands and other public lands are used to reduce the threat of catastrophic wildfire in the wildland-urban interface, to support community and private land wildfire control efforts, to require that receipts generated from hazardous fuels reduction projects are returned to the Treasury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Community Protection Against Wildfire Act of 2002”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Reservation of National Fire Plan funds for wildfire control efforts on
Federal lands in wildland-urban interface.

Sec. 4. Community and private land wildfire assistance.

Sec. 5. Limitation on maximum diameter of living trees that may be cut.

Sec. 6. Forest restoration and value-added centers.

Sec. 7. Treatment of receipts.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) CENTER.—The term “Center” means a
9 Restoration and Value-Added Center established
10 under section 6.

11 (2) FEDERAL LANDS.—The term “Federal
12 lands” means—

13 (A) National Forest System lands; and

14 (B) public lands administered by the Sec-
15 retary of the Interior, acting through the Na-
16 tional Park Service, the United States Fish and
17 Wildlife Service, or the Bureau of Land Man-
18 agement.

19 (3) INDIAN TRIBE.—The term “Indian tribe”
20 has the meaning given the term in section 4 of the
21 Indian Self-Determination and Education Assistance
22 Act (25 U.S.C. 450b).

1 (4) MICRO-ENTERPRISE.—The term “micro-en-
2 terprise” means a non-subsidiary business or cooper-
3 ative employing five or fewer people.

4 (5) NATIONAL FIRE PLAN.—The term “Na-
5 tional Fire Plan” means the plans, strategies,
6 projects, and activities of the Secretary concerned to
7 respond to adverse impacts on communities and the
8 environment from wildfires on Federal public lands,
9 which are based on and reflect the following:

10 (A) The report of the Secretary of Agri-
11 culture and the Secretary of the Interior enti-
12 tled “Managing the Impact of Wildfires on
13 Communities and the Environment”, dated
14 September 8, 2000.

15 (B) Congressional direction accompanying
16 appropriations to the Department of Agri-
17 culture and the Department of the Interior for
18 wildland fire management for fiscal year 2001
19 and subsequent years.

20 (6) SECRETARY CONCERNED.—The “Secretary
21 concerned” means—

22 (A) the Secretary of Agriculture or the ap-
23 propriate Federal land manager with respect to
24 the Federal lands described in paragraph
25 (2)(A); and

1 (B) the Secretary of the Interior or the ap-
2 propriate Federal land manager with respect to
3 the Federal lands described in paragraph
4 (2)(B).

5 (7) SMALL ENTERPRISE.—The term “small en-
6 terprise” means a non-subsidary business or cooper-
7 ative employing between 6 and 150 people.

8 (8) WILDLAND-URBAN INTERFACE.—The term
9 “wildland-urban interface” means a geographic area
10 in which—

11 (A) homes and other structures are within
12 one-quarter mile of, or intermixed with, Federal
13 lands containing flammable vegetation;

14 (B) the conditions on such lands are con-
15 ducive to wildfire; and

16 (C) there is a significant probability of a
17 fire ignition and a resulting spread of the wild-
18 fire.

19 **SEC. 3. RESERVATION OF NATIONAL FIRE PLAN FUNDS**
20 **FOR WILDFIRE CONTROL EFFORTS ON FED-**
21 **ERAL LANDS IN WILDLAND-URBAN INTER-**
22 **FACE.**

23 Of the total funds appropriated or otherwise made
24 available to the Secretary concerned to implement the Na-
25 tional Fire Plan in a fiscal year, the Secretary concerned

1 shall expend not less than 85 percent of the funds to plan
2 and carry out hazardous fuels reduction projects and other
3 wildfire control efforts on Federal lands in the wildland-
4 urban interface.

5 **SEC. 4. COMMUNITY AND PRIVATE LAND WILDFIRE ASSIST-**
6 **ANCE.**

7 (a) **PROVISION OF ASSISTANCE.**—The Secretary of
8 Agriculture shall make grants to States and Indian tribes
9 for the purpose of—

10 (1) promoting optimal firefighting efficiency at
11 the Federal, State, Indian tribe, and local levels in
12 the wildland-urban interface;

13 (2) augmenting Federal projects under the Na-
14 tional Fire Plan that establish landscape level pro-
15 tection from wildfires;

16 (3) expanding outreach and education programs
17 to homeowners and communities about fire preven-
18 tion; and

19 (4) establishing space around homes and prop-
20 erty of private landowners that is defensible against
21 wildfires.

22 (b) **ADMINISTRATION AND IMPLEMENTATION.**—The
23 grant funds shall be administered, and projects using such
24 funds shall be implemented, by State foresters or equiva-

1 lent State officials or, in the case of a grant to an Indian
2 tribe, an appropriate representative of the Indian tribe.

3 (c) USE OF GRANT FUNDS.—The grant funds pro-
4 vided by the Secretary of Agriculture to a State or Indian
5 tribe shall be used to undertake on non-Federal lands in
6 the wildland-urban interface—

7 (1) fuel hazard mitigation and prevention;

8 (2) invasive species management;

9 (3) multiresource wildfire planning;

10 (4) community protection planning;

11 (5) community and landowner education enter-
12 prises, including the program known as FIREWISE;

13 and

14 (6) special restoration projects.

15 (d) CONSENT REQUIRED.—Activities undertaken on
16 non-Federal lands shall be undertaken only with the con-
17 sent of the owner of the lands.

18 (e) DISTRIBUTION OF GRANT FUNDS.—Funds ap-
19 propriated or otherwise made available to carry out this
20 section for a fiscal year shall be distributed by the Sec-
21 retary of Agriculture to each State and Indian tribe in
22 an amount that bears the same relationship to the total
23 funds available as the population of communities at risk
24 to wildlife in the State or area under the jurisdiction of

1 the Indian tribe, as determined by the Secretary, bears
2 to the total population of all communities at risk.

3 (f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are hereby authorized to be appropriated to the Secretary
5 of Agriculture to carry out this section a total of
6 \$1,500,000,000 during the five-fiscal year period begin-
7 ning October 1, 2002.

8 **SEC. 5. LIMITATION ON MAXIMUM DIAMETER OF LIVING**
9 **TREES THAT MAY BE CUT.**

10 (a) LIMITATIONS REQUIRED.—To ensure that funds
11 appropriated or otherwise made available to implement the
12 National Fire Plan or to make grants under section 4 are
13 used to actually reduce the threat of catastrophic wildfire
14 in the wildland-urban interface, rather than increase the
15 harvest of valuable timber, the Secretary concerned shall
16 adopt and enforce regulations that limit the diameter of
17 trees that may be removed as part of any hazardous fuels
18 reduction project or other wildfire control effort funded
19 in whole or in part using National Fire Plan funds or
20 grant funds under section 4.

21 (b) BASIS FOR REGULATIONS.—The Secretary con-
22 cerned shall develop the regulations required by subsection
23 (a) using the recommendations contained in a study, to
24 be conducted by the National Academy of Sciences, re-
25 garding diameter limitations based on tree species and for-

1 est types. The National Academy of Sciences shall include
2 specific recommendations in the study for the content of
3 the regulations.

4 (c) EXCEPTION.—The Secretary concerned may
5 grant an exception to a diameter limitation adopted under
6 subsection (a) if the Secretary determines that extraor-
7 dinary circumstances exist requiring the removal of a tree
8 that exceeds the limitation to ensure public safety.

9 (d) TIME PERIOD FOR IMPLEMENTATION.—The
10 study required by subsection (b) shall be completed and
11 submitted to the Secretary within eight months after the
12 date of the enactment of this Act. As soon as possible after
13 receipt of the study, the Secretary concerned shall publish
14 in the Federal Register the notice of proposed rule making
15 under this section and otherwise comply with the require-
16 ments of section 553 of title 5, United States Code. Within
17 eight months after the receipt of the study, the final regu-
18 lations shall be issued. The regulations shall apply to haz-
19 ardous fuels reduction projects and other wildfire control
20 efforts beginning on or after October 1, 2003, and funded
21 in whole or in part using National Fire Plan funds or
22 grant funds under section 4.

1 **SEC. 6. FOREST RESTORATION AND VALUE-ADDED CEN-**
2 **TERS.**

3 (a) ESTABLISHMENT.—The Secretary concerned may
4 provide cost-share grants, cooperative agreements, or both
5 to establish Restoration and Value-Added Centers in order
6 to improve the implementation of collaborative, commu-
7 nity-based restoration projects on Federal lands.

8 (b) REQUIREMENTS.—The Centers shall provide
9 technical assistance to nonprofit organizations, existing
10 small enterprises or micro-enterprises or individuals inter-
11 ested in creating a natural-resource related small enter-
12 prise or micro-enterprise in the following areas—

13 (1) restoration, and

14 (2) processing techniques for the byproducts of
15 restoration and value-added manufacturing.

16 (c) ADDITIONAL REQUIREMENTS.—The Centers shall
17 provide technical assistance in—

18 (1) using the latest, independent peer reviewed,
19 scientific information and methodology to accomplish
20 restoration and ecosystem health objectives,

21 (2) workforce training for value-added manufac-
22 turing and restoration,

23 (3) marketing and business support for con-
24 servation-based small enterprises and micro-enter-
25 prises,

1 (4) accessing urban markets for small enter-
2 prises and micro-enterprises located in rural commu-
3 nities,

4 (5) developing technology for restoration and
5 the use of products resulting from restoration,

6 (6) accessing funding from government and
7 non-government sources, and

8 (7) development of economic infrastructure in-
9 cluding collaborative planning, proposal development,
10 and grant writing where appropriate.

11 (d) LOCATIONS.—The Secretaries shall ensure that—

12 (1) the Centers are located in the Forest Serv-
13 ice regions with the highest percentage of forested
14 land designated as condition class 3; and

15 (2) each Center is easily accessible to rural
16 communities that are adjacent to, or surrounded by,
17 Federal lands in the region.

18 (e) PROCESS FOR ESTABLISHMENT.—(1) The Sec-
19 retary concerned may enter into partnerships and coopera-
20 tive agreements with other Federal agencies or other orga-
21 nizations, including local nonprofit organizations, con-
22 servation groups, or community colleges in creating and
23 maintaining the Restoration and Value-Added Centers.

24 (2) The appropriate Regional Forester and State Bu-
25 reau of Land Management Director shall issue a request

1 for proposals to create a Restoration and Value-Added
2 Center. The Regional Forester and State Bureau of Land
3 Management Director shall select a proposal with input
4 from existing Resource and Technical Advisory Commit-
5 tees where appropriate.

6 (f) COST-SHARING.—(1) The Secretary concerned
7 shall provide cost-share grants, cooperative agreements, or
8 both equaling 75 percent of each Restoration and Value-
9 Added Center’s operating costs, including business plan-
10 ning, not to exceed \$1,000,000 annually per Center.

11 (2) After a Restoration and Value-Added Center has
12 operated for five years, the Secretary concerned shall as-
13 sess the Center’s performance and begin to reduce, by 25
14 percent annually, the level of Federal funding for the cen-
15 ter’s operating costs.

16 (g) NOTICE.—Within 30 days of approving a grant
17 or cooperative agreement to establish a Restoration and
18 Value-Added Center, the Secretary shall notify the Com-
19 mittee on Energy and Natural Resources of the Senate
20 and the Committee on Resources of the House of Rep-
21 resentatives and identify the recipient of the grant award
22 or cooperative agreement.

23 (h) REPORT.—No later than five years after the date
24 of the enactment of this Act, the Secretary concerned shall
25 submit a report to the Committee on Energy and Natural

1 Resources of the Senate and the Committee on Resources
2 of the House of Representatives assessing the Restoration
3 and Value-Added Centers. The report shall include—

4 (1) descriptions of the organizations receiving
5 assistance from the Centers, including their geo-
6 graphic and demographic distribution;

7 (2) a summary of the projects the technical as-
8 sistance recipients implemented; and

9 (3) an estimate of the number of non-profit or-
10 ganizations, small enterprises, micro-enterprises, or
11 individuals assisted by the Restoration and Value-
12 Added Centers.

13 **SEC. 7. TREATMENT OF RECEIPTS.**

14 Any moneys collected as a result of a hazardous fuels
15 reduction project or other wildfire control effort funded
16 in whole or in part using National Fire Plan funds or
17 grant funds under section 4 shall be deposited in the gen-
18 eral fund of the Treasury. Such receipts shall not be con-
19 sidered to be moneys received from the National Forest
20 System or other Federal lands under any other provision
21 of law.

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