

PUBLIC LANDS FIRE REGULATIONS ENFORCEMENT ACT OF
2003

JULY 17, 2003.—Ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1038]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1038) to increase the penalties to be imposed for a violation of fire regulations applicable to the public lands, National Park System lands, or National Forest System lands when the violation results in damage to public or private property, to specify the purpose for which collected fines may be used, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1038 is to increase the penalties to be imposed for a violation of fire regulations applicable to public lands, National Park System lands, or National Forest System lands when the violation results in damage to public or private property, to specify the purpose for which collected fines may be used and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Over the last ten years, human carelessness has been responsible for the ignition of just over one million fires, destroying an average of 100,000 acres per year. By comparison, lightning has been the cause of roughly one-tenth of fires, though lightning-caused fires have resulted in more acres burned. Stiffer penalties may be one

way to help reduce the number of fires attributable to people violating fire bans.

Current penalties for violating existing fire regulations specify a maximum fine of \$500 dollars and six months imprisonment for offenders. However, the fines are generally assessed at a far lower level. In many cases fines levied are well below even \$100—lacking any real deterrent to would-be violators. In at least one case in 2002, for example, a prospective visitor to a Colorado national forest contacted a district ranger about the potential fines for violating the recently imposed fire ban. When the visitor was informed that the fine for violating the ban was around \$50, he asked if there was a way to pay the fine in advance.

While H.R. 1038 was favorably reported from Committee by unanimous consent, it was done with the understanding that technical corrections would be made in consultation with the Minority, Department of Justice, Department of Agriculture, and Department of the Interior. The sponsor notes the possible burden of a jury trial with recognizing the need for technical changes to ensure the feasible implementation of the bill. Furthermore, the sponsor indicated that negotiations are needed to come to an agreement on the technical changes to the bill before it is taken up by the House of Representatives.

COMMITTEE ACTION

H.R. 1038 was introduced on February 27, 2003, by Congressman Thomas G. Tancredo (R-CO). The bill was referred to the Committee on Resources, and additionally to the Committee on Agriculture. Within the Resources Committee, the bill was referred to the Subcommittee on Forests and Forest Health and the Subcommittee on National Parks, Recreation and Public Lands. On June 19, 2003, the Forest Subcommittee held a hearing on the bill. On July 9, 2003, the Full Resources Committee met to consider the bill. The Subcommittee on Forests and Forest Health and the Subcommittee on National Parks, Recreation and Public Lands were discharged from further consideration of the bill. No amendments were offered and the bill was favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has in-

cluded in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, H.R. 1038 would not significantly affect the federal budget. The bill would increase both revenues and direct spending by less than \$500,000 a year.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 15, 2003.

Hon. RICHARD POMBO,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1038, the Public Lands Fire Regulations Enforcement Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 1038—Public Lands Fire Regulations Enforcement Act of 2003

CBO estimates that H.R. 1038 would not significantly affect the federal budget. The bill would increase both revenues and direct spending by less than \$500,000 a year. H.R. 1038 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 1038 would increase fines and imprisonment terms for violating fire regulations on certain federal lands. The bill would authorize the Secretary of Agriculture and the Secretary of the Interior to spend, without further appropriation, amounts received from such fines to reimburse the appropriate department for certain costs incurred to respond to fires, rehabilitate damaged lands, and increase public awareness of legal requirements regarding the use of fire on public lands.

Under current law, collections of such fines are recorded in the budget as governmental receipts (revenues) and are deposited in the Crime Victims Fund and later spent. Based on information from the Department of the Interior and the Forest Service, CBO

estimates that increasing those fines and authorizing the agencies to spend them would increase revenues and direct spending by less than \$500,000 annually. We also estimate that any increased costs for prison operations, which would be subject to appropriation, would not be significant.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

ADDITIONAL VIEWS OF REPRESENTATIVE JAY INSLEE

H.R. 1038, as reported by the Committee, is well-intended but seriously flawed legislation. While I agree with the sponsor's goal of deterring violations of federal regulations to prevent fires on national forests and public lands, the bill as presently written does not achieve that goal and instead would complicate and even discourage law enforcement.

In a letter dated July 7, 2003, the U.S. Department of Justice detailed a number of serious concerns about H.R. 1038. Significantly, the Department notes that the increased prison term set forth in the legislation would guarantee every defendant a right to a jury trial under the Sixth Amendment to the United States Constitution, no matter how trivial the offense. Similarly, the proposed minimum fine of \$1,000 may result in more challenges in court by those ticketed, draining both prosecutorial and court resources. Ironically, it could discourage the National Park Service or Forest Service law enforcement officers from issuing a citation notice or ticket for routine offenses.

As a former prosecutor in the State of Washington, I am particularly concerned about the Congress acting haphazardly to tie the hands of law enforcement officers and to further clog the courts with cases involving minor infractions.

At the markup of H.R. 1038, however, the Chairman assured Members that the legislation will be amended to address the Department of Justice's concerns when it is considered on the floor of the House. I preferred that the Committee postpone markup instead of knowingly reporting a flawed bill. But relying on the Chairman's assurance, I look forward to participating in the process of developing those amendments prior to it coming before the House.

JAY INSLEE.

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