

111TH CONGRESS
1ST SESSION

H. R. 1404

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2009

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To authorize a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Federal Land Assistance, Management and Enhance-
 6 ment Act” or “FLAME Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Flame Fund for catastrophic emergency wildland fire suppression activi-
 ties.

Sec. 3. Cohesive wildland fire management strategy.

Sec. 4. Review of certain wildfires to evaluate cost containment in wildland fire
 suppression activities.

Sec. 5. Reducing risk of wildfires in fire-ready communities.

9 **SEC. 2. FLAME FUND FOR CATASTROPHIC EMERGENCY**
 10 **WILDLAND FIRE SUPPRESSION ACTIVITIES.**

11 (a) DEFINITIONS.—In this section:

12 (1) FEDERAL LAND.—The term “Federal land”
 13 means the following:

14 (A) Public lands, as defined in section 103
 15 of the Federal Land Policy and Management
 16 Act of 1976 (43 U.S.C. 1702).

17 (B) Units of the National Park System.

18 (C) Refuges of the National Wildlife Ref-
 19 uge System.

20 (D) Lands held in trust by the United
 21 States for the benefit of Indian tribes or indi-
 22 vidual Indians.

1 (E) Lands in the National Forest System,
2 as defined in section 11(a) of the Forest and
3 Rangeland Renewable Resources Planning Act
4 of 1974 (16 U.S.C. 1609(a)).

5 (2) FLAME FUND.—The term “Flame Fund”
6 means the Federal Land Assistance, Management,
7 and Enhancement Fund established by this section.

8 (3) SECRETARY CONCERNED.—The term “Sec-
9 retary concerned” means—

10 (A) the Secretary of the Interior, with re-
11 spect to Federal land described in subpara-
12 graphs (A), (B), (C), and (D) of paragraph (1);
13 and

14 (B) the Secretary of Agriculture, with re-
15 spect to National Forest System land.

16 (4) SECRETARIES.—The term “Secretaries”
17 means the Secretary of the Interior and the Sec-
18 retary of Agriculture, acting jointly.

19 (b) ESTABLISHMENT AND AVAILABILITY OF FLAME
20 FUND.—

21 (1) ESTABLISHMENT.—There is established in
22 the Treasury of the United States a fund to be
23 known as the Federal Land Assistance, Manage-
24 ment, and Enhancement Fund.

1 (2) CONTENTS.—The Flame Fund shall consist
2 of the following amounts:

3 (A) Amounts appropriated to the Flame
4 Fund pursuant to the authorization of appro-
5 priations in subsection (c).

6 (B) Amounts transferred to the Flame
7 Fund pursuant to subsection (d).

8 (3) AVAILABILITY.—Subject to subsection (e),
9 amounts in the Flame Fund shall be available to the
10 Secretaries to pay the costs of catastrophic emer-
11 gency wildland fire suppression activities that are
12 separate from amounts annually appropriated to the
13 Secretaries for the predicted annual workload for
14 wildland fire suppression activities, based on anal-
15 yses of historical workloads and anticipated in-
16 creased workloads due to changing environmental or
17 demographic conditions. Authorized suppression ac-
18 tivities include containment activities in response to
19 crisis insect infestations to reduce the likelihood of
20 wildfires.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated to the Flame
24 Fund such amounts as may be necessary to carry
25 out this section. It is the intent of Congress that the

1 amount appropriated to the Flame Fund for fiscal
2 year 2010 and each fiscal year thereafter should be
3 not less than the average amount expended by the
4 Secretaries for emergency wildland fire suppression
5 activities over the five fiscal years preceding that fis-
6 cal year.

7 (2) NOTICE OF INSUFFICIENT FUNDS.—The
8 Secretaries shall notify the congressional committees
9 specified in subsection (h)(2) whenever only an esti-
10 mated two months worth of funding remains in the
11 Flame Fund.

12 (d) TRANSFER OF EXCESS WILDLAND FIRE SUP-
13 PRESSION AMOUNTS INTO FLAME FUND.—At the end of
14 each fiscal year, the Secretary concerned shall transfer to
15 the Flame Fund amounts appropriated to the Secretary
16 concerned for wildland fire suppression activities for the
17 fiscal year, but not obligated for wildland fire suppression
18 activities before the end of the fiscal year.

19 (e) USE OF FLAME FUND.—

20 (1) DECLARATION REQUIRED.—Amounts in the
21 Flame Fund shall be made available to the Secretary
22 concerned only after the Secretaries issue a declara-
23 tion that a wildland fire suppression activity is eligi-
24 ble for funding from the Flame Fund.

1 (2) DECLARATION CRITERIA.—A declaration by
2 the Secretaries under paragraph (1) shall be based
3 on the following criteria:

4 (A) In the case of an individual wildland
5 fire incident—

6 (i) the fire covers 300 or more acres;

7 (ii) the severity of the fire, which may
8 be based on incident complexity or the po-
9 tential for increased complexity; and

10 (iii) the threat posed by the fire, in-
11 cluding the potential for loss of lives, prop-
12 erty, or critical resources.

13 (B) Consistent with subsection (f), in the
14 case of a firefighting season, when the cumu-
15 lative costs of wildland fire suppression activi-
16 ties for the Secretary concerned are projected to
17 exceed amounts annually appropriated for such
18 activities.

19 (3) TRANSFER OF AMOUNTS TO SECRETARY
20 CONCERNED.—After issuance of a declaration under
21 paragraph (1) and upon the request of the Secretary
22 concerned, the Secretary of the Treasury shall trans-
23 fer from the Flame Fund to the Secretary concerned
24 such amounts as the Secretaries determine are nec-

1 essary for wildland fire suppression activities associ-
2 ated with the declared suppression emergency.

3 (4) STATE, PRIVATE, AND TRIBAL LAND.—Use
4 of the Flame Fund for catastrophic emergency
5 wildland fire suppression activities on State and pri-
6 vate land and, where applicable, tribal land shall be
7 consistent with existing agreements where the Secre-
8 taries have agreed to assume responsibility for
9 wildland fire suppression activities on the land.

10 (5) EFFECT OF INSECT INFESTATIONS.—For
11 purposes of applying clauses (ii) and (iii) of para-
12 graph (2)(A), the Secretaries shall take into account
13 areas where insect infestation has created an ex-
14 treme risk for wildfire.

15 (f) TREATMENT OF ANTICIPATED AND PREDICTED
16 ACTIVITIES.—The Secretary concerned shall continue to
17 fund anticipated and predicted wildland fire suppression
18 activities within the appropriate agency budget for each
19 fiscal year. Use of the additional funding made available
20 through the Flame Fund is intended to supplement the
21 budgeted and appropriated agency funding and is to be
22 used only for purposes and in instances consistent with
23 this section.

24 (g) PROHIBITION ON OTHER TRANSFERS.—All
25 amounts in the Flame Fund, as well as all funds appro-

1 priated for the purpose of wildland fire suppression on
2 Federal land, must be obligated before the Secretary con-
3 cerned may transfer funds from non-fire accounts for
4 wildland fire suppression.

5 (h) ACCOUNTING AND REPORTS.—

6 (1) ACCOUNTING AND REPORTING SYSTEM.—

7 The Secretaries shall establish an accounting and re-
8 porting system for the Flame Fund compatible with
9 existing National Fire Plan reporting procedures.

10 (2) ANNUAL REPORT; PUBLIC AVAILABILITY.—

11 The Secretaries shall submit to the Committee on
12 Natural Resources, the Committee on Agriculture,
13 and the Committee on Appropriations of the House
14 of Representatives and the Committee on Energy
15 and Natural Resources, the Committee on Indian
16 Affairs, and the Committee on Appropriations of the
17 Senate an annual report on the use of the funds
18 from the Flame Fund, together with any rec-
19 ommendations that the Secretaries may have to im-
20 prove the administrative control and oversight of the
21 Flame Fund. The annual report shall be made avail-
22 able to the public.

23 (3) ESTIMATES OF WILDFIRE SUPPRESSION
24 COSTS TO IMPROVE BUDGETING AND FUNDING.—

1 (A) PERIODIC ESTIMATES.—Consistent
2 with the schedule provided in subparagraph
3 (B), the Secretaries shall submit to the commit-
4 tees specified in paragraph (2) an estimate of
5 anticipated wildfire suppression costs for the
6 current fiscal year and the following fiscal year.
7 The methodology for developing the estimates
8 shall be subject to periodic peer review to en-
9 sure compliance with subparagraph (C).

10 (B) SUBMISSION SCHEDULE.—The Secre-
11 taries shall submit an estimate under subpara-
12 graph (A) during—

13 (i) the first week of February of each
14 year;

15 (ii) the first week of April of each
16 year;

17 (iii) the first week of July of each
18 year; and

19 (iv) if the bill making appropriations
20 for operations of the Department of the
21 Interior and the Forest Service for the fol-
22 lowing fiscal year has not been enacted by
23 September 1, the first week of September
24 of each year.

1 (C) BASIS.—An estimate of anticipated
2 wildfire suppression costs shall be developed
3 using the best available—

4 (i) climate, weather, and other rel-
5 evant data; and

6 (ii) models and other analytic tools.

7 **SEC. 3. COHESIVE WILDLAND FIRE MANAGEMENT STRAT-**
8 **EGY.**

9 (a) STRATEGY REQUIRED.—Not later than one year
10 after the date of the enactment of this Act, the Secretary
11 of the Interior and the Secretary of Agriculture shall sub-
12 mit to Congress a report that contains a cohesive wildland
13 fire management strategy, consistent with the rec-
14 ommendations contained in recent Comptroller General re-
15 ports regarding this issue.

16 (b) ELEMENTS OF STRATEGY.—The strategy re-
17 quired by subsection (a) shall address the findings of the
18 Comptroller General in the reports referred to in such sub-
19 section and include the following elements:

20 (1) A system to identify the most cost effective
21 means for allocating fire management budget re-
22 sources.

23 (2) An illustration of plans by the Secretary of
24 the Interior and the Secretary of Agriculture to rein-
25 vest in non-fire programs.

1 (3) A description of how the Secretaries will
2 employ appropriate management response.

3 (4) A system for assessing the level of risk to
4 communities.

5 (5) A system to ensure that the highest priority
6 fuels reduction projects are being funded first.

7 (6) A system to assess the impacts of climate
8 change on the frequency and severity of wildland
9 fire.

10 (7) A system to study the effects of invasive
11 species on wildland fire risk.

12 (8) A plan, developed in coordination with the
13 National Guard Bureau, to maximize the use of Na-
14 tional Guard resources to fight wildfires.

15 (c) REVISION.—At least once during every five-year
16 period initially beginning on the date of the submission
17 of the cohesive wildland fire management strategy under
18 subsection (a), the Secretary of the Interior and the Sec-
19 retary of Agriculture shall submit to Congress a revised
20 strategy that takes into consideration changes affecting
21 the elements of the strategy specified in subsection (b)
22 during the five-year period, in particular changes with re-
23 spect to landscape, vegetation, climate, and weather.

24 (d) NOTICE OF PRESCRIBED FIRES.—As part of the
25 strategy required by subsection (a) for the Forest Service,

1 the Secretary of Agriculture shall ensure that, before any
2 prescribed fire is used on National Forest System land,
3 owners of adjacent private land are notified in writing of
4 the date and scope of the prescribed fire.

5 **SEC. 4. REVIEW OF CERTAIN WILDFIRES TO EVALUATE**
6 **COST CONTAINMENT IN WILDLAND FIRE SUP-**
7 **PPRESSION ACTIVITIES.**

8 (a) REVIEW REQUIRED.—The Secretary of the Inte-
9 rior and the Secretary of Agriculture shall conduct a re-
10 view, using independent panels, of each wildfire incident
11 for which the Secretary concerned incurs expenses in ex-
12 cess of \$10,000,000. The review of a wildfire incident shall
13 include an assessment of what actions, if any, could have
14 been taken in advance of the fire that may have prevented
15 the fire or at least reduced the severity of the fire. The
16 review of a wildfire incident shall include an assessment
17 of the quantity of greenhouses gases produced as a result
18 of the fire.

19 (b) REPORT.—The Secretary concerned shall submit
20 to the Committee on Natural Resources, the Committee
21 on Agriculture, and the Committee on Appropriations of
22 the House of Representatives and the Committee on En-
23 ergy and Natural Resources, the Committee on Indian Af-
24 fairs, and the Committee on Appropriations of the Senate

1 a report containing the results of each review conducted
2 under subsection (a).

3 **SEC. 5. REDUCING RISK OF WILDFIRES IN FIRE-READY**
4 **COMMUNITIES.**

5 (a) FIRE-READY COMMUNITY DEFINED.—In this
6 section, the term “fire-ready community” means a com-
7 munity that satisfies the requirement of paragraph (1),
8 and the requirements in at least two of the other four
9 paragraphs, as follows:

10 (1) is located within a priority area identified
11 pursuant to subsection (b);

12 (2) has a cooperative fire agreement that ar-
13 ticulates the roles and responsibilities for Federal,
14 State and local government entities in local wildfire
15 suppression and protection;

16 (3) has local codes that require fire-resistant
17 home design and building materials;

18 (4) has a community wildfire protection plan
19 (as defined in section 101 of the Healthy Forests
20 Restoration Act of 2003 (16 U.S.C. 6502)); and

21 (5) is engaged in a successful collaborative
22 process that includes multiple interested persons
23 representing diverse interests and is transparent and
24 nonexclusive, such as a resource advisory committee
25 established under section 205 of the Secure Rural

1 Schools and Community Self-Determination Act of
2 2000 (Public Law 106–393; 16 U.S.C. 500 note).

3 (b) FIRE RISK MAPPING.—As soon as is practicable
4 after the date of the enactment of this Act, the Secretary
5 of Agriculture and the Secretary of the Interior (in this
6 section referred to as the “Secretaries”) shall develop re-
7 gional maps of communities most at risk of wildfire and
8 in need of hazardous fuel treatment and maintenance. The
9 maps shall identify priority areas for hazardous fuels re-
10 duction projects, including—

11 (1) at-risk communities in fire-prone areas of
12 the wildland-urban interface (as defined in section
13 101 of the Healthy Forests Restoration Act of 2003
14 (16 U.S.C. 6502));

15 (2) watersheds and municipal drinking water
16 sources;

17 (3) emergency evacuation corridors;

18 (4) electricity transmission corridors; and

19 (5) low-capacity or low-income communities.

20 (c) LOCAL WILDLAND FIREFIGHTING CAPABILITY
21 GRANTS.—

22 (1) GRANTS AVAILABLE.—The Secretaries may
23 provide cost-share grants to fire-ready communities
24 to assist such communities in carrying out activities
25 authorized by paragraph (2).

1 (2) ELIGIBLE ACTIVITIES.—Grant funds may
2 be used for the following:

3 (A) Education programs to raise aware-
4 ness of homeowners and citizens about wildland
5 fire protection practices, including FireWise or
6 similar programs.

7 (B) Training programs for local fire-
8 fighters on wildland firefighting techniques and
9 approaches.

10 (C) Equipment acquisition to facilitate
11 wildland fire preparedness.

12 (D) Implementation of a community wild-
13 fire protection plan.

14 (E) Implementation of fire-safety programs
15 focused on the eradication or control of invasive
16 species.

17 (d) WILDLAND FIRE COST-SHARE AGREEMENTS.—
18 In developing any wildland fire cost-share agreement with
19 a State Forester or equivalent official, the Secretaries
20 shall, to the greatest extent possible, encourage the State
21 and local communities involved to become fire-ready com-
22 munities.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretaries to carry
3 out this section such sums as may be necessary.

Passed the House of Representatives March 26,
2009.

Attest: LORRAINE C. MILLER,
Clerk.