

110TH CONGRESS
2^D SESSION

H. R. 5541

IN THE SENATE OF THE UNITED STATES

JULY 10 (legislative day, JULY 9), 2008

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

AN ACT

To provide 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.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) AUTHORIZATION OF APPROPRIATIONS.—
20 There is authorized to be appropriated to the Flame
21 Fund such funds as may be necessary to carry out
22 this section. It is the intent of Congress that the
23 amount appropriated to the Flame Fund for fiscal
24 year 2009 and each subsequent fiscal year equal the
25 average amount expended by the Secretaries for

1 emergency wildland fire suppression activities over
2 the five fiscal years preceding that fiscal year.

3 (2) SENSE OF CONGRESS ON DESIGNATION OF
4 CERTAIN APPROPRIATIONS AS EMERGENCY REQUIRE-
5 MENT.—It is the sense of Congress that the
6 amounts appropriated to the Flame Fund that are
7 above the average of the obligations of the preceding
8 10 years for wildland fire suppression in the Forest
9 Service and the Department of the Interior, adjusted
10 for inflation, should be designated as amounts nec-
11 essary to meet emergency needs, and the new budget
12 authority and outlays resulting therefrom should not
13 count for the purposes of titles III and IV of the
14 Congressional Budget Act of 1974.

15 (3) NOTICE OF INSUFFICIENT FUNDS.—The
16 Secretaries shall notify the congressional committees
17 specified in subsection (h)(2) whenever only an esti-
18 mated two months worth of funding remains in the
19 Flame Fund.

20 (d) TRANSFER OF EXCESS WILDLAND FIRE SUP-
21 PPRESSION AMOUNTS INTO FLAME FUND.—At the end of
22 each fiscal year, the Secretary concerned shall transfer to
23 the Flame Fund amounts appropriated to the Secretary
24 concerned for wildland fire suppression activities for the

1 fiscal year, but not obligated for wildland fire suppression
2 activities before the end of the fiscal year.

3 (e) USE OF FLAME FUND.—

4 (1) DECLARATION REQUIRED.—Amounts in the
5 Flame Fund shall be made available to the Secretary
6 concerned only after the Secretaries issue a declara-
7 tion that a wildland fire suppression activity is eligi-
8 ble for funding through the Flame Fund.

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

12 (A) In the case of an individual wildland
13 fire incident—

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

15 (ii) the severity of the fire, which may
16 be based on incident complexity or the po-
17 tential for increased complexity; and

18 (iii) the threat posed by the fire, in-
19 cluding the potential for loss of lives, prop-
20 erty, or critical resources.

21 (B) Consistent with subsection (f), in the
22 case of a firefighting season, cumulative
23 wildland fire suppression activities, when the
24 costs of those activities for the Secretary con-

1 cerned are projected to exceed amounts annu-
2 ally appropriated.

3 (3) TRANSFER OF AMOUNTS TO SECRETARY
4 CONCERNED.—After issuance of a declaration under
5 paragraph (1) and upon the request of the Secretary
6 concerned, the Secretary of the Treasury shall trans-
7 fer from the Flame Fund to the Secretary concerned
8 such amounts as the Secretaries determine are nec-
9 essary for wildland fire suppression activities associ-
10 ated with the declared suppression emergency.

11 (4) STATE, PRIVATE, AND TRIBAL LAND.—Use
12 of the Flame Fund for catastrophic emergency
13 wildland fire suppression activities on State and pri-
14 vate land and, where applicable, tribal land shall be
15 consistent with existing agreements where the Secre-
16 taries have agreed to assume responsibility for
17 wildland fire suppression activities on the land.

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

1 used only for purposes and in instances consistent with
2 this section.

3 (g) PROHIBITION ON OTHER TRANSFERS.—All
4 amounts in the Flame Fund, as well as all funds appro-
5 priated for the purpose of wildland fire suppression on
6 Federal land, must be obligated before the Secretary con-
7 cerned may transfer funds from non-fire accounts for
8 wildland fire suppression.

9 (h) ACCOUNTING AND REPORTS.—

10 (1) ACCOUNTING AND REPORTING SYSTEM.—
11 The Secretaries shall establish an accounting and re-
12 porting system for the Flame Fund compatible with
13 existing National Fire Plan reporting procedures.

14 (2) ANNUAL REPORT.—The Secretaries shall
15 submit to the Committee on Natural Resources, the
16 Committee on Agriculture, and the Committee on
17 Appropriations of the House of Representatives and
18 the Committee on Energy and Natural Resources,
19 the Committee on Indian Affairs, and the Committee
20 on Appropriations of the Senate an annual report on
21 the use of the funds from the Flame Fund, together
22 with any recommendations that the Secretaries may
23 have to improve the administrative control and over-
24 sight of the Flame Fund.

1 (3) PUBLIC AVAILABILITY.—The annual report
2 required by paragraph (2) shall be made available to
3 the public.

4 **SEC. 3. COHESIVE WILDLAND FIRE MANAGEMENT STRAT-**
5 **EGY.**

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

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

17 (1) A system to identify the most cost effective
18 means for allocating fire management budget re-
19 sources.

20 (2) An illustration of plans by the Secretary of
21 the Interior and the Secretary of Agriculture to rein-
22 vest in non-fire programs.

23 (3) A description of how the Secretaries will
24 employ appropriate management response.

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

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

5 (c) NOTICE OF PRESCRIBED FIRES.—As part of the
6 strategy required by subsection (a) for the Forest Service,
7 the Secretary of Agriculture shall ensure that, before any
8 prescribed fire is used on National Forest System land,
9 owners of adjacent private land are notified in writing of
10 the date and scope of the proposed prescribed fire.

11 **SEC. 4. REVIEW OF CERTAIN WILDFIRES TO EVALUATE**
12 **COST CONTAINMENT IN WILDLAND FIRE SUP-**
13 **PPRESSION ACTIVITIES.**

14 (a) REVIEW REQUIRED.—The Secretary of the Inte-
15 rior and the Secretary of Agriculture shall conduct a re-
16 view, using independent panels, of each wildfire incident
17 for which the Secretary concerned incurs expenses in ex-
18 cess of \$10,000,000.

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—

8 (1) is located within a priority area identified
9 pursuant to subsection (b);

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

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

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

19 (5) is engaged in a successful collaborative
20 process that includes multiple interested persons
21 representing diverse interests and is transparent and
22 nonexclusive, such as a resource advisory committee
23 established under section 205 of the Secure Rural
24 Schools and Community Self-Determination Act of
25 2000 (Public Law 106–393; 16 U.S.C. 500 note).

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

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

13 (2) watersheds and municipal drinking water
14 sources;

15 (3) emergency evacuation corridors;

16 (4) electricity transmission corridors; and

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

18 (c) LOCAL WILDLAND FIREFIGHTING CAPABILITY
19 GRANTS.—

20 (1) GRANTS AVAILABLE.—The Secretaries may
21 provide cost-share grants to fire-ready communities
22 to assist such communities in carrying activities au-
23 thorized by paragraph (2).

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

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

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

8 (C) Equipment acquisition to facilitate
9 wildland fire preparedness.

10 (D) Implementation of a community wild-
11 fire protection plan.

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

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

Passed the House of Representatives July 9, 2008.

Attest: LORRAINE C. MILLER,
Clerk.