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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

(b) TABLE OF CONTENTS.—The table of contents for
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.

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

(a) DEFINITIONS.—In this section:

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

(A) Public lands, as defined in section 103
of the Federal Land Policy and Management

(B) Units of the National Park System.

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

(D) Lands held in trust by the United
States for the benefit of Indian tribes or indi-
vidual Indians.
(E) Lands in the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

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

(3) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) the Secretary of the Interior, with respect to Federal land described in subparagraphs (A), (B), (C), and (D) of paragraph (1); and

(B) the Secretary of Agriculture, with respect to National Forest System land.

(4) SECRETARIES.—The term “Secretaries” means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(b) ESTABLISHMENT AND AVAILABILITY OF FLAME FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Federal Land Assistance, Management, and Enhancement Fund.
(2) CONTENTS.—The Flame Fund shall consist of the following amounts:

(A) Amounts appropriated to the Flame Fund pursuant to the authorization of appropriations in subsection (c).

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

(3) AVAILABILITY.—Subject to subsection (e), amounts in the Flame Fund shall be available to the Secretaries to pay the costs of catastrophic emergency wildland fire suppression activities that are separate from amounts annually appropriated to the Secretaries for the predicted annual workload for wildland fire suppression activities, based on analyses of historical workloads and anticipated increased workloads due to changing environmental or demographic conditions. Authorized suppression activities include containment activities in response to crisis insect infestations to reduce the likelihood of wildfires.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.— There is authorized to be appropriated to the Flame Fund such amounts as may be necessary to carry out this section. It is the intent of Congress that the
amount appropriated to the Flame Fund for fiscal year 2010 and each fiscal year thereafter should be not less than the average amount expended by the Secretaries for emergency wildland fire suppression activities over the five fiscal years preceding that fiscal year.

(2) NOTICE OF INSUFFICIENT FUNDS.—The Secretaries shall notify the congressional committees specified in subsection (h)(2) whenever only an estimated two months worth of funding remains in the Flame Fund.

(d) TRANSFER OF EXCESS WILDLAND FIRE SUPPRESSION AMOUNTS INTO FLAME FUND.—At the end of each fiscal year, the Secretary concerned shall transfer to the Flame Fund amounts appropriated to the Secretary concerned for wildland fire suppression activities for the fiscal year, but not obligated for wildland fire suppression activities before the end of the fiscal year.

(e) USE OF FLAME FUND.—

(1) DECLARATION REQUIRED.—Amounts in the Flame Fund shall be made available to the Secretary concerned only after the Secretaries issue a declaration that a wildland fire suppression activity is eligible for funding from the Flame Fund.

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

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

(i) the fire covers 300 or more acres;

(ii) the severity of the fire, which may be based on incident complexity or the potential for increased complexity; and

(iii) the threat posed by the fire, including the potential for loss of lives, property, or critical resources.

(B) Consistent with subsection (f), in the case of a firefighting season, when the cumulative costs of wildland fire suppression activities for the Secretary concerned are projected to exceed amounts annually appropriated for such activities.

(3) TRANSFER OF AMOUNTS TO SECRETARY CONCERNED.—After issuance of a declaration under paragraph (1) and upon the request of the Secretary concerned, the Secretary of the Treasury shall transfer from the Flame Fund to the Secretary concerned such amounts as the Secretaries determine are nec-
necessary for wildland fire suppression activities associated with the declared suppression emergency.

(4) **STATE, PRIVATE, AND TRIBAL LAND.**—Use of the Flame Fund for catastrophic emergency wildland fire suppression activities on State and private land and, where applicable, tribal land shall be consistent with existing agreements where the Secretaries have agreed to assume responsibility for wildland fire suppression activities on the land.

(5) **EFFECT OF INSECT INFESTATIONS.**—For purposes of applying clauses (ii) and (iii) of paragraph (2)(A), the Secretaries shall take into account areas where insect infestation has created an extreme risk for wildfire.

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

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

(h) ACCOUNTING AND REPORTS.—

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

(2) ANNUAL REPORT; PUBLIC AVAILABILITY.—
The Secretaries shall submit to the Committee on
Natural Resources, the Committee on Agriculture,
and the Committee on Appropriations of the House of Representatives and the Committee on Energy
and Natural Resources, the Committee on Indian
Affairs, and the Committee on Appropriations of the Senate an annual report on the use of the funds
from the Flame Fund, together with any recom-
mendations that the Secretaries may have to im-
prove the administrative control and oversight of the Flame Fund. The annual report shall be made avail-
able to the public.

(3) ESTIMATES OF WILDFIRE SUPPRESSION COSTS TO IMPROVE BUDGETING AND FUNDING.—
(A) Periodic estimates.—Consistent with the schedule provided in subparagraph (B), the Secretaries shall submit to the committees specified in paragraph (2) an estimate of anticipated wildfire suppression costs for the current fiscal year and the following fiscal year. The methodology for developing the estimates shall be subject to periodic peer review to ensure compliance with subparagraph (C).

(B) Submission schedule.—The Secretaries shall submit an estimate under subparagraph (A) during—

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

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

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

(iv) if the bill making appropriations for operations of the Department of the Interior and the Forest Service for the following fiscal year has not been enacted by September 1, the first week of September of each year.
(C) **Basis.**—An estimate of anticipated wildfire suppression costs shall be developed using the best available—

(i) climate, weather, and other relevant data; and

(ii) models and other analytic tools.

**SEC. 3. COHESIVE WILDLAND FIRE MANAGEMENT STRATEGY.**

(a) **Strategy Required.**—Not later than one year after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall submit to Congress a report that contains a cohesive wildland fire management strategy, consistent with the recommendations contained in recent Comptroller General reports regarding this issue.

(b) **Elements of Strategy.**—The strategy required by subsection (a) shall address the findings of the Comptroller General in the reports referred to in such subsection and include the following elements:

1. A system to identify the most cost effective means for allocating fire management budget resources.

2. An illustration of plans by the Secretary of the Interior and the Secretary of Agriculture to reinvest in non-fire programs.
(3) A description of how the Secretaries will employ appropriate management response.

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

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

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

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

(8) A plan, developed in coordination with the National Guard Bureau, to maximize the use of National Guard resources to fight wildfires.

(c) Revision.—At least once during every five-year period initially beginning on the date of the submission of the cohesive wildland fire management strategy under subsection (a), the Secretary of the Interior and the Secretary of Agriculture shall submit to Congress a revised strategy that takes into consideration changes affecting the elements of the strategy specified in subsection (b) during the five-year period, in particular changes with respect to landscape, vegetation, climate, and weather.

(d) Notice of Prescribed Fires.—As part of the strategy required by subsection (a) for the Forest Service,
the Secretary of Agriculture shall ensure that, before any
prescribed fire is used on National Forest System land,
owners of adjacent private land are notified in writing of
the date and scope of the prescribed fire.

SEC. 4. REVIEW OF CERTAIN WILDFIRES TO EVALUATE
COST CONTAINMENT IN WILDLAND FIRE SUP-
PRESSION ACTIVITIES.

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

(b) Report.—The Secretary concerned shall submit
to the Committee on Natural Resources, the Committee
on Agriculture, and the Committee on Appropriations of
the House of Representatives and the Committee on En-
ergy and Natural Resources, the Committee on Indian Af-
fairs, and the Committee on Appropriations of the Senate
a report containing the results of each review conducted
under subsection (a).

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

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

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

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

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

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

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

(b) FIRE RISK MAPPING.—As soon as is practicable after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior (in this section referred to as the “Secretaries”) shall develop regional maps of communities most at risk of wildfire and in need of hazardous fuel treatment and maintenance. The maps shall identify priority areas for hazardous fuels reduction projects, including—

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

(2) watersheds and municipal drinking water sources;

(3) emergency evacuation corridors;

(4) electricity transmission corridors; and

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

(c) LOCAL WILDLAND FIREFIGHTING CAPABILITY GRANTS.—

(1) GRANTS AVAILABLE.—The Secretaries may provide cost-share grants to fire-ready communities to assist such communities in carrying out activities authorized by paragraph (2).
(2) ELIGIBLE ACTIVITIES.—Grant funds may be used for the following:

(A) Education programs to raise awareness of homeowners and citizens about wildland fire protection practices, including FireWise or similar programs.

(B) Training programs for local firefighters on wildland firefighting techniques and approaches.

(C) Equipment acquisition to facilitate wildland fire preparedness.

(D) Implementation of a community wildland fire protection plan.

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

(d) WILDLAND FIRE COST-SHARE AGREEMENTS.—In developing any wildland fire cost-share agreement with a State Forester or equivalent official, the Secretaries shall, to the greatest extent possible, encourage the State and local communities involved to become fire-ready communities.
(c) Authorization of Appropriations.—There is authorized to be appropriated to the Secretaries to carry out this section such sums as may be necessary.

Passed the House of Representatives March 26, 2009.

Attest: LORRAINE C. MILLER,

 Clerk.