To provide environmentally sound, expedited procedures for the planning and implementation of hazardous fuels reduction activities for wild-fire prone National Forest System lands and lands administered by the Bureau of Land Management, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2003

Mr. GEORGE MILLER of California (for himself and Mr. DeFazio) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, 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 provide environmentally sound, expedited procedures for the planning and implementation of hazardous fuels reduction activities for wild-fire prone National Forest System lands and lands administered by the Bureau of Land Management, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the “Federal Lands Hazardous Fuels Reduction Act of 2003”.

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

 Sec. 1. Short title.
 Sec. 2. Definitions.
 Sec. 3. Hazardous fuels reduction projects authorized.
 Sec. 4. Collaboration and public input process.
 Sec. 5. Expedited planning and implementation process.
 Sec. 6. Development of definitions of old and large trees.
 Sec. 7. Ongoing projects and existing authorities.
 Sec. 8. Preference to communities with fire prevention ordinances.
 Sec. 9. Sunset.
 Sec. 10. Authorization of appropriations.
 Sec. 11. Availability and use of Reforestation Trust Fund.

3 SEC. 2. DEFINITIONS.

4 (a) LAND TYPE AND FIRE REGIME DEFINITIONS

5 FROM FOREST SERVICE ROCKY MOUNTAIN RESEARCH

6 STATION.—In this Act:

7 (1) CONDITION CLASS 2.—The term “condition
8 class 2” refers to lands on which—
9 (A) fire regimes have been moderately al-
10 tered from their historical fire return intervals;
11 (B) there exists a moderate risk of losing
12 key ecosystem components; and
13 (C) vegetation attributes have been mod-
14 erately altered from their historical range.
15 (2) CONDITION CLASS 3.—The term “condition
16 class 3” refers to lands on which—
17 (A) fire regimes have been significantly al-
18 tered from their historical fire return intervals;
19 and

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(B) there exists a high risk of losing key ecosystem components.

(3) FIRE REGIME I.—The term “fire regime I” refers to lands—

(A) on which historically there are low severity fires with a frequency of 0–35 years; and

(B) are located primarily in low elevation forests of pine, oak, and pinyon-juniper.

(4) FIRE REGIME II.—The term “fire regime II” refers to lands—

(A) on which historically there are stand replacement severity fires with a frequency of 0–35 years; and

(B) are located primarily in low- to mid-elevation forests, rangelands, grasslands, or shrublands.

(5) FIRE REGIME III.—The term “fire regime III” refers to lands—

(A) on which historically there are mixed severity fires with a frequency of 35–100 years; and

(B) are located primarily in forests of mixed conifer, dry Douglas Fir, and wet Ponderosa pine.

(b) OTHER DEFINITIONS.—In this Act:
(1) **BEST VALUE CONTRACTING.**—The term “best value contracting” means the contracting process described in section 15.101 of title 48, Code of Federal Regulations, which allows the inclusion of non-cost factors in the contract process.

(2) **COMPREHENSIVE STRATEGY.**—The term “Comprehensive Strategy” means the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, which was developed pursuant to the conference report to accompany the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106–646).

(3) **FEDERAL LANDS.**—Except as provided in subsection (c), the term “Federal lands” means—

(A) National Forest System lands; and

(B) public lands administered by the Secretary of the Interior acting through the Bureau of Land Management.

(4) **GOODS FOR SERVICE CONTRACTING.**—The term “goods for service contracting” means the contracting process described in section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (as contained in section
5

101(e) of division A of Public Law 105–277; 16

(5) HAZARDOUS FUELS REDUCTION
PROJECT.—The term “hazardous fuels reduction
project” means a project—

(A) undertaken for the purpose of reducing
the amount of hazardous fuels resulting from
alteration of a natural fire regime as a result
of fire suppression or other activities; and

(B) accomplished through the use of pre-
scribed burning or mechanical treatment, or
combination thereof.

(6) INVENTORIED ROADLESS AREA.—The term
“inventoried roadless area” means one of the areas
identified in the set of inventoried roadless areas
maps contained in the Forest Service Roadless
Areas Conservation, Final Environmental Impact

(7) LOCAL PREFERENCE CONTRACTING.—The
term “local preference contracting” means the con-
tracting process described in section 333 of the De-
partment of the Interior and Related Agencies Ap-
propriations Act, 2003 (division F of Public Law
108–7; 117 Stat. 277), that gives preference to local
businesses.
(8) MANAGEMENT UNIT.—The term “management unit”, with respect to Federal lands, means a unit of the National Forest System or a land management district of the Bureau of Land Management.

(9) MUNICIPAL WATER SUPPLY SYSTEM.—The term “municipal water supply” means reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, or other surface facilities and systems constructed or installed for the impoundment, storage, transportation, or distribution of drinking water for a community.

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

(A) the Secretary of Agriculture (or the designee of the Secretary) with respect to National Forest System lands; and

(B) the Secretary of the Interior (or the designee of the Secretary) with respect to public lands administered by the Secretary through the Bureau of Land Management.

(11) WILDLAND-URBAN INTERFACE.—The term “wildland-urban interface” means a geographic area designated by the Secretary concerned as any area—
(A) defined on page 753 of volume 66 of the Federal Register, as published on January 4, 2001;

(B) on which conditions are conducive to large-scale fire disturbance events; and

(C) for which a significant risk exists of a resulting spread of the fire disturbance event, after ignition, which would threaten human life and property.

(c) EXCLUDED FEDERAL LANDS.—This Act, including the expedited process described in section 5, does not apply to any Federal lands—

(1) included as a component of the National Wilderness Preservation System;

(2) where commercial logging is prohibited or restricted by Act of Congress, presidential proclamation, or agency determination;

(3) included in a wilderness study area; or

(4) included in an inventoried roadless area.

SEC. 3. HAZARDOUS FUELS REDUCTION PROJECTS AUTHORIZED.

(a) CONSISTENCY WITH IMPLEMENTATION PLAN.—The processes authorized or required by this Act shall be consistent with the implementation plan for the Com-
prehensive Strategy to reduce hazardous fuels on Federal lands.

(b) **Priority Hazardous Fuels Reduction Projects.**—

(1) **Projects on Certain Federal Lands.**—

In implementing hazardous fuels reduction projects under this Act, the Secretary concerned shall give priority to projects on the following Federal lands:

(A) Federal lands that are located in the wildland-urban interface within one-half mile of a community where fire regime I, fire regime II, or fire regime III exists and that are in condition class 2 or condition class 3.

(B) Federal lands where fire regime I, fire regime II, or fire regime III exists that are in condition class 3, or condition class 2 if the Federal lands are intermingled with condition class 3 lands, and that are located in such proximity to a municipal water supply system that a hazardous fuels reduction project should be carried out in order to reduce the risk of harm to such system or the quality of a municipal water supply resulting from an unusually severe wildfire.
(2) LIMITATION ON OTHER PROJECTS PENDING COMPLETION OF PRIORITY PROJECTS.—In any management unit of the Federal lands in which Federal lands described in paragraph (1) are located, the Secretary concerned shall not carry out any hazardous fuels reduction project under this Act on any other lands in that management unit until the Secretary concerned completes treatment of all acreage in that management unit on Federal lands described in paragraph (1).

(c) COMPLIANCE WITH LAND MANAGEMENT PLANS.—A hazardous fuels reduction project planned and conducted under this Act must be consistent with the land and resource management plan, land use plan, and other agency plans and regulations applicable to the Federal lands covered by the project.

(d) PROJECT CONTRACTING.—To conduct a hazardous fuels reduction project under this Act, the Secretary concerned shall use local preference contracting and best value contracting. Payments under a contract entered into to implement a project under this Act shall only be made on a fee-for-service basis. The Secretary concerned shall not use goods-for-service contracting to implement a project under this Act.
(e) LIMITATIONS.—In conducting a hazardous fuels reduction project under this Act, the Secretary concerned—

(1) shall not construct new permanent or temporary roads;

(2) shall maintain all old and large trees and the structure, function, and composition of late-successional forest stands appropriate for each ecosystem type, until the process required by section 6 is complete and Congress formally adopts or rejects the recommendations by Act of Congress;

(3) shall focus on thinning from below when using mechanical treatment.

(f) ACREAGE LIMITATION.—Not more than 20,000,000 acres of Federal land may be treated using the authorities provided by this Act.

(g) FUNDING PRIORITY.—Of funds expended for hazardous fuels reduction projects under this Act, at least 75 percent shall be expended on projects in the wildland-urban interface within one-half mile of a community.

(h) MONITORING.—

(1) MONITORING REQUIRED.—The Secretary concerned shall establish a balanced multiparty monitoring process in order for Congress to assess a rep-
resentative sampling of the hazardous fuels reduction projects implemented under this Act.

(2) Report required.—Not later than one year after the expiration of this Act, as provided in section 9, the Secretary concerned shall submit to Congress a report containing, at a minimum, the following:

(A) An assessment of the cumulative accomplishments or adverse impacts of the fuels reduction projects conducted under this Act.

(B) A description of the ecological effects of the projects conducted under this Act.

(C) A description of the economic viability, impacts, and costs of the projects conducted under this Act.

SEC. 4. COLLABORATION AND PUBLIC INPUT PROCESS.

(a) Process required.—

(1) Development.—As a condition on the selection of hazardous fuels reduction projects under section 3, the Secretary of Agriculture and the Secretary of the Interior shall jointly develop a collaborative process with interested parties, consistent with the implementation plan for the Comprehensive Strategy. The collaborative process developed by the Secretaries may be the process set forth in title II.
of the Secure Rural Schools and Community Self-
Determination Act of 2000 (Public Law 106–393;

(2) REQUIRED MAPS AND PUBLIC MEETINGS.—
As part of the process developed under subsection
(a), the Secretaries shall—

(A) produce maps designating the condi-
tion class of lands at the appropriate landscape
scale;

(B) make such maps readily available for
public inspection; and

(C) hold a public meeting to discuss condi-
tion classification of lands by management unit
and to identify priority areas for hazardous
fuels reduction projects.

(b) PUBLIC NOTICE.—

(1) QUARTERLY NOTICE.—The Secretary con-
cerned shall provide quarterly notice of each haz-
ardous fuels reduction project proposed to be con-
ducted using the expedited process described in sec-
tion 5. The quarterly notice shall be provided in the
Federal Register, in a local paper of record, and on
an agency website. The Secretary concerned may
combine this quarterly notice with other quarterly
notices otherwise issued regarding Federal land management.

(2) CONTENT.—The notice required by paragraph (1) shall include, at a minimum, the following information regarding each hazardous fuels reduction project contained in the notice:

(A) Specific identification that the project is a hazardous fuels reduction project for which the expedited process described in section 5 will be used, including a clear statement whether the agency intends to use a categorical exclusion or to prepare an environmental assessment or environmental impact statement.

(B) A description of the project, including as much information on its geographic location as practicable.

(C) The approximate date on which scoping for the project will begin.

(D) Information regarding how interested members of the public can take part in the development of the project pursuant to the expedited process described in section 5.

(e) PUBLIC MEETING.—Following publication of each quarterly notice under subsection (b), but before the beginning of scoping for the project pursuant to the expe-
dited process described in section 5, the Secretary concerned shall conduct a public meeting at an appropriate location in each administrative unit of the Federal lands regarding those hazardous fuels reduction projects contained in the quarterly notice that are proposed to be conducted in that administrative unit. The Secretary concerned shall provide advance notice of the date and time of the meeting in the quarterly notice or using the same means described in subsection (b)(1).

(d) Final Agency Action.—The Secretary concerned shall provide notice in the local paper of record and on an agency website of any final agency action regarding a hazardous fuels reduction project for which the expedited process described in section 5 are used.

(e) Public Petitions for Inclusion or Exclusion of Lands.—

(1) Right to Petition.—An entity referred to in paragraph (4) may submit to the Secretary concerned a petition, with supporting evidence, that requests the inclusion or exclusion of an area of Federal lands in subsection (a) with regard to condition class.

(2) Evaluation.—The Secretary concerned shall respond to a petition under paragraph (1) by public notice of a public viewing of the area in ques-
tion, within 90 days of receipt the petition, with the petitioner and any other interested parties.

(3) RESPONSE.—The Secretary concerned shall accept or deny the petition within 180 days of its receipt, based on the site evaluation under paragraph (2) and a specific review of the historical conditions, forest type, and present fuel loads of the Federal lands covered by the petition.

(4) AUTHORIZED PETITIONERS.—A petition under paragraph (1) may be submitted by any of the following:

(A) A political subdivision of a State.

(B) A federally formed resource advisory council or provincial advisory committee.


SEC. 5. EXPEDITED PLANNING AND IMPLEMENTATION PROCESS.

(a) SCOPING.—The Secretary concerned shall conduct scoping with respect to each hazardous fuels reduction project for which the expedited process established by this section are to be used.
(b) CATEGORICAL EXCLUSIONS.—

(1) PRESUMPTION NEAR COMMUNITIES.—If a hazardous fuels reduction project covered by section 3, for which the collaborative and public input process required by section 4 is used, covers Federal lands located in the wildland-urban interface within one-half mile of a community, the project is deemed to be categorically excluded from further analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.). The Secretary concerned need not make any findings as to whether the project, either individually or cumulatively, has a significant effect on the environment. However, within the one-half mile zone surrounding a community, the Secretary concerned shall vary the treatments used to achieve heterogeneity of forest conditions and to ensure forest health.

(2) EXTRAORDINARY CIRCUMSTANCES EXCEPTION.—Paragraph (1) shall not apply to Federal lands located in the wildland-urban interface within one-half mile of a community if extraordinary circumstances exist with respect to the lands.

(3) EXTRAORDINARY CIRCUMSTANCES.—In the case of a hazardous fuels reduction project for which a categorical exclusion applies under paragraph (1),
if extraordinary circumstances exist with respect to
the project, the Secretary concerned shall follow
agency procedures (as contained in CEQ regulation
1508.4, Forest Service Handbook 1909.15, chapters
30–33, as of August 22, 2002, and Bureau of Land
Management Handbook H–1790–1, 516 DM 2.1–
2.10) related to categorical exclusions and extraor-
dinary circumstances.

(4) APPEALS.—Hazardous fuels reduction
projects implemented using a categorical exclusion
under paragraph (1) are not subject to appeal re-
quirements imposed by section 322 of the Depart-
ment of the Interior and Related Agencies Approp-
riations Act, 1993 (Public Law 102–381; 16
U.S.C. 1612 note), or the Department of the Inter-
ior Office of Hearings and Appeals.

(c) ENVIRONMENTAL ASSESSMENTS.—

(1) IN GENERAL.—With respect to priority
lands identified in section 3(b), if a categorical ex-
clusion does not apply under subsection (b) to a haz-
ardous fuels reduction project under section 3 for
the lands, the Secretary concerned shall determine,
consistent with the National Environmental Policy
Act of 1969, whether an environmental assessment
will be sufficient to meet the requirements for the
project under such Act.

(2) CONTENT.—An environmental assessment
prepared for a hazardous fuels reduction project
under section 3 shall—

(A) be concise, if possible not more than
10–15 pages;

(B) describe sufficient information and
analyses for determining whether to prepare an
environmental impact statement or a finding of
no significant impact;

(C) state the need for the proposed action;

(D) describe alternative actions, as re-
quired by section 102(2)(E) of the National
Environmental Policy Act of 1969;

(E) briefly describe the environmental im-
pacts of the proposed action and alternatives;

(F) list the agencies and persons con-
sulted, as required by section 1508.9 of title 40,
Code of Federal Regulations, with respect to
National Forest System lands;

(G) reference supporting data, inventories
and other documents on which the Secretary
concerned relied to make the decision; and
(H) involve interested agencies and the public in the preparation of the environmental assessment.

(3) Availability of decision document.—
When the decision document is complete for a hazardous fuels reduction project under section 3 for which an environmental assessment or categorical exclusion memo is prepared, the Secretary concerned shall—

(A) provide notice of the decision document in the Federal Register, the local paper of record, and an agency website, including notice stating how the documentation listed in subparagraph (B) will be available; and

(B) make the environmental analysis document, administrative record, and decision document or memo for the project, pursuant to section 215.2 of title 36, Code of Federal Regulations, readily available for public review.

(4) Appeals.—Notwithstanding the appeal requirements imposed by section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note), or the Department of the Interior Office of Hearings and Appeals—
(A) persons must file any administrative appeal of a project under this subsection within 30 days after the date of issuance of the decision document for the project;

(B) the Secretary concerned shall resolve any appeal not later than 20 days after the closing date for filing an appeal; and

(C) the Secretary concerned shall stay implementation of the project until the end of the 15-day period beginning on date on which the Secretary concerned resolves any administrative appeal that complies with the requirements in subsection (d).

(d) ADDITIONAL LIMITATION ON ADMINISTRATIVE APPEALS.—Notwithstanding section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note), if a draft document prepared pursuant to the National Environmental Policy Act of 1969 for a hazardous fuels reduction project covered by section 3 was available for public comment, the Secretary of Agriculture may require that a person filing an administrative appeal with respect to the project must have been involved in the public comment process for the project by submitting written comments raising specific issues with regard to the project.
(e) Statement of Compliance.—A categorical exclusion memo or environmental assessment decision document prepared under this section shall include a short statement as to how the hazardous fuels reduction project complies with the requirement of section 3(e).

SEC. 6. DEVELOPMENT OF DEFINITIONS OF OLD AND LARGE TREES.

(a) Use of National Academy of Sciences.—The Secretary of Agriculture and the Secretary of the Interior shall jointly enter into a contract with the National Academy of Sciences for the preparation of recommended definitions of old and large trees appropriate for each ecosystem type to be used for purposes of this Act.

(b) Qualifications.—To be eligible to serve on the panel of the National Academy of Sciences used to prepare the recommended definitions of old and large trees, a member of the panel shall have scientific expertise in the characteristics of old growth and the seral stages of forest types.

(c) Submission of Recommended Definitions.—Not later than one year after the date of the enactment of this Act, the National Academy of Sciences shall submit to the Secretary of Agriculture, the Secretary of the Interior, and Congress the recommended definitions of old and large trees appropriate for each ecosystem type.
SEC. 7. ONGOING PROJECTS AND EXISTING AUTHORITIES.

Nothing in this Act shall affect a hazardous fuels reduction projects for which scoping has begun before the date of the enactment of this Act or affect authorities otherwise granted to the Secretary concerned under existing law.

SEC. 8. PREFERENCE TO COMMUNITIES WITH FIRE PREVENTION ORDINANCES.

In determining the allocation of funding for the Community and Private Land Fire Assistance program under section 10A(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C 2106c(b)), the Secretary of Agriculture shall prioritize funding to those communities that have taken proactive steps through the enactment of ordinances and other means to encourage property owners to reduce fire risk on private property.

SEC. 9. SUNSET.

The provisions of this Act shall expire at the end of the five-year period beginning on the date of the enactment of this Act, except that a hazardous fuels reduction project for which a decision notice, or memo in the case of a categorical exclusion, has been issued before the end of such period may continue to be implemented using the provisions of this Act.
SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL FOREST SYSTEM LANDS.—For the purpose of planning and conducting hazardous fuels reduction projects under this Act on National Forest System Lands, there are authorized to be appropriated to the Secretary of Agriculture $1,943,100,000 during the five-fiscal year period beginning October 1, 2003. Subject to section 9, amounts appropriated in one fiscal year and unobligated before the end of that fiscal year shall remain available for use in subsequent fiscal years.

(b) BLM LANDS.—For the purpose of planning and conducting hazardous fuels reduction projects under this Act on Federal lands described in section 2(b)(2)(B), there are authorized to be appropriated to the Secretary of the Interior $1,888,000,000 during the five-fiscal year period beginning October 1, 2003. Subject to section 9, amounts appropriated in one fiscal year and unobligated before the end of that fiscal year shall remain available for use in subsequent fiscal years.

SEC. 11. AVAILABILITY AND USE OF REFORESTATION TRUST FUND.

(a) WAIVER OF LIMITATION ON TRANSFERS.—During fiscal years 2004 through 2008, the limitation in subsection (b)(2) of section 303 of Public Law 96–451 (16 U.S.C. 1606a) shall not apply.
(b) Consultation.—During fiscal years 2004 through 2008, the consultation required by subsection (c)(1) of section 303 of Public Law 96–451 shall include consultation with the Secretary of the Interior.

(c) Expansion of Obligation Requirements.—During fiscal years 2004 through 2008, the Secretary of the Interior, in addition to the Secretary of Agriculture, shall obligate funds in the Reforestation Trust Fund established by section 303 of Public Law 96–451 on Federal lands, but the authority otherwise provided by subsection (d)(1) of such section to obligate such funds to reduce hazardous fuel loads of forest stands shall not be used except as provided in subsection (d)(2) of this section.

(d) Obligation Requirements and Amounts.—

(1) Reduction in Risk of Wildfire to Structures.—During fiscal years 2004 through 2008, the Secretary of Agriculture and the Secretary of the Interior shall jointly obligate $100,000,000 each fiscal year of funds in the Restoration Trust Fund to reduce the risk of wildfire to structures on tribal lands, nonindustrial private lands, and State lands using the authorities available under the Emergency Watershed Protection program, the National Fire Plan, and grant programs authorized by the Farm Security and Rural Investment Act of
2002 and other laws. As part of the Emergency Watershed Protection program, the Secretary of Agriculture, acting through the Natural Resources Conservation Service, may undertake measures, including making cost-share grants to Indian tribes, local fire districts, municipalities, homeowner associations, and counties, to prevent destruction from wildfires by treating vegetation within the defensible space of homes and other structures.

(2) Hazardous Fuels Reduction Projects.—During fiscal years 2004 through 2008, amounts remaining in the Reforestation Trust Fund after application of subsection (d) of section 303 of Public Law 96–451 and paragraph (1) of this subsection shall be used for hazardous fuels reduction projects conducted under this Act.

(e) Retention of Revenue.—During fiscal years 2004 through 2008, the Secretary of Agriculture and the Secretary of the Interior may sell commercial vegetation produced as a result of hazardous fuels reduction projects under this Act. Revenue from the sale of such vegetation shall be deposited in the Reforestation Trust Fund, and may only be used for hazardous fuels reduction projects described in section 5(b)(1).
(f) **Transfers to Reforestation Trust Fund.**—

During fiscal years 2004 through 2008, in lieu of the transfers required by subsection (b)(1) of section 303 of Public Law 96–451, the Secretary of the Treasury may transfer to the Reforestation Trust Fund an amount equal to the sum of the tariffs received in the Treasury under chapter 44 and subheadings 6808.00.00 and 6809.11.00 of chapter 68 of the Harmonized Tariff Schedule of the United States. Subsection (b)(2) of such section, which limits the total amount that may be transferred for a fiscal year, shall not apply to transfers made under this subsection.