To expedite procedures for hazardous fuels reduction activities on National Forest System lands established from the public domain and other public lands administered by the Bureau of Land Management, to improve the health of National Forest System lands established from the public domain and other public lands administered by the Bureau of Land Management, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2003

Mr. BINGAMAN (for himself, Mr. DASCHLE, Mrs. MURRAY, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To expedite procedures for hazardous fuels reduction activities on National Forest System lands established from the public domain and other public lands administered by the Bureau of Land Management, to improve the health of National Forest System lands established from the public domain and other public lands administered by the Bureau of Land Management, 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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Collaborative Forest Health Act”.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term “at-risk community” means—

(A) an urban wildland “interface” or “intermix” community as those terms were defined by the Secretaries on January 4, 2001 (66 FR 753), or

(B) consisting of a collection of homes or other structures with basic infrastructure and services, such as utilities, collectively maintained transportation routes, and emergency services;

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

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

(2) The term “community protection zone” means an at-risk community and an area within one-half mile of an at-risk community.

(3) The term “Secretaries” means the Secretary of Agriculture with respect to National Forest
System lands and the Secretary of the Interior with respect to public lands administered by the Bureau of Land Management.

(4) The term “1890 Institution” means a college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

(5) The term “Federal lands” means public lands as defined in section 103(e) of the Federal Land Policy and Management Act (43 U.S.C. 1702(e)) and the National Forest System as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1609(a)).

SEC. 3. EXPEDITED PLANNING AND IMPLEMENTATION PROCESS.

(a) CATEGORICAL EXCLUSION.—Subject to subsection (h), the Secretaries may find that a proposed hazardous fuels reduction project, including prescribed fire, that removes no more than 250,000 board feet of merchantable wood products or removes as salvage 1,000,000 board feet or less of merchantable wood products and assures regeneration of harvested or salvaged areas will not individually or cumulatively have a significant effect on the human environment and, therefore, neither an envi-
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ronmental assessment nor an environmental impact state-
ment is required.

(b) Public Meeting.—Prior to implementing a
project pursuant to subsection (a), the Secretaries shall
conduct a public meeting at an appropriate location prox-
imate to the administrative unit of the Federal lands in
which the project will be conducted. The Secretaries shall
provide advance notice of the date and time of the meet-
ing.

(c) Collaboration.—

(1) The Secretaries shall identify projects im-
plemented pursuant to this section through a col-
laborative framework as described in the Implemen-
tation Plan for the 10-year Comprehensive Strategy
for a Collaborative Approach for Reducing Wildland
Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the Con-
ference Report to the Department of the Interior
and Related Agencies Appropriations Act, FY 2001
(H. Rept. 106–646) to reduce hazardous fuels. Any
project carried out pursuant to this section shall be
consistent with the applicable forest plan, resource
management plan, or other applicable agency plans.

(2) The Secretaries shall ensure that local level
collaboration includes Tribal representatives, local
representatives from Federal and State agencies, local governments, landowners, other stakeholders, and community-based groups.

(3) The Secretaries shall establish incentives or performance measures to ensure that Federal employees are committed to collaboration.

(d) ACREAGE LIMITATION.—In implementing this section, the Secretaries shall implement projects on an aggregate area of not more than 20 million acres of Federal lands. This amount is in addition to the existing hazardous fuels reduction program that implements projects on approximately 2.5 million acres each year.

(e) ADMINISTRATIVE APPEALS.—Projects implemented pursuant to this section shall not be subject to the appeal requirements of section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (16 U.S.C. 1612 note) or review by the Department of the Interior Board of Land Appeals. Nothing in this section affects projects for which scoping has begun prior to enactment of this Act.

(f) CONCLUSIVE PRESUMPTION.—Within—

(1) the community protection zone; or

(2) municipal watersheds in which National Environmental Policy Act documentation and analysis has been completed and no new road construction is
allowed, no timber sales are allowed, and no log
skidding machines are allowed,
unless there are extraordinary circumstances, the decision
of either Secretary that a proposed hazardous fuels reduc-
tion project authorized by subsection (a) is categorically
excluded is conclusive as a matter of law and shall not
be subject to judicial review. This conclusive determination
shall apply in any judicial proceeding brought to enforce
the National Environmental Policy Act pursuant to this
section.

(g) EXCLUDED FEDERAL LANDS.—This section does
not apply to any Federal lands—

(1) included in a wilderness study area or a
component of the National Wilderness Preservation
System; or

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

(h) EXTRAORDINARY CIRCUMSTANCES.—For all
projects proposed pursuant to this section, if there are ex-
traordinary circumstances, the Secretaries shall follow
agency procedures related to categorical exclusions and ex-
traordinary circumstances consistent with Council on En-
vironmental Quality regulations.
(i) Reduce Fire Risk and Improve Forest Health.—

(1) In order to ensure that the agencies are implementing projects pursuant to this section that reduce the risk of unnaturally intense wildfires and improve forest health, the Secretaries—

(A) shall not construct or reconstruct new temporary or permanent roads in inventoried roadless areas;

(B) shall maintain the integrity of mature and old growth stands appropriate for each ecosystem type and shall focus on thinning from below for all forest thinning projects;

(C) shall use integrated pest management techniques to forestall significant fuel loading in areas infested by native insects;

(D) shall require a slash treatment plan when thinning to reduce hazardous fuels in areas with insect mortality and limit timber salvage activity to areas with fifty percent or more mortality; and

(E) shall deposit in the Treasury of the United States all revenues and receipts generated from projects implemented pursuant to this Act.
(2) In addition to the requirements set forth in paragraph (1), the Secretaries shall ensure that projects implemented in municipal watersheds protect or enhance water quality or water quantity.

(3) The Secretaries shall not use goods-for-service contracting to implement projects pursuant to this section.

(j) Long-Term Fuel Management.—In implementing hazardous fuels reduction projects pursuant to this section, the Secretaries shall ensure that—

(1) funding to assure completion of all phases of the project be committed by the management unit before the project begins;

(2) a follow-up treatment plan describing the long-term maintenance activities to keep the treated areas within the historical range of variability, and the project costs, shall accompany all proposed projects; and

(3) a system to track the budgeting and implementation of follow-up treatments shall be used to account for the long-term maintenance of areas managed to reduce hazardous fuels.

(k) Hazardous Fuels Reduction Funding Focus.—In order to focus hazardous fuels reduction activities on the highest priority areas where critical issues
of human safety and property loss are the most serious
and within municipal watersheds, the Secretaries shall ex-
pend at least seventy percent of the hazardous fuels oper-
ations funds provided annually only on projects within the
community protection zone or within municipal waters-
sheds.

(l) COMMUNITIES.—

(1) The Secretaries shall expend at least thirty
percent of the hazardous fuels operations funds pro-
vided annually on projects that benefit small busi-
nesses that use small diameter material and woody
debris removed in hazardous fuels reduction treat-
m ents and are located in small, economically dis-
advantaged communities.

(2) To conduct a project under this section, the
Secretaries shall use local preference contracting and
best value contracting. Best value contracting cri-
teria includes—

(A) the ability of the contractor to meet
the ecological goals of the projects;

(B) the use of equipment that will mini-
mize or eliminate impacts on soils; and

(C) benefits to local communities such as
ensuring that the byproducts are processed lo-
cally.
(m) MONITORING.—

(1) The Secretaries shall jointly establish a commission to complete an assessment of the positive or negative impacts and effectiveness of projects implemented under this section. The commission shall be composed of 12 to 15 members with equal representation from conservation interests, local communities, and commodity interests. The Commission shall submit a report to Congress within 36 months after the date of enactment of this Act. The report must include identification of the total dollar value of contracts awarded to natural resource related small or micro-enterprises, Youth Conservation Corps crews or related partnerships, entities that hired and trained local people to complete the contract or agreement, or local entities that meet the criteria to qualify for the Historically Underutilized Business Zone Program pursuant to section 32 of the Small Business Act (15 U.S.C. 657a).

(2)(A) The Secretaries shall establish a multiparty monitoring, evaluation, and accountability process in order to assess a representative sampling of the projects implemented pursuant to this section.
(B) The Secretaries shall ensure that monitoring data is collected and compiled in a way that the general public can easily access. The Secretaries may collect the data using cooperative agreements, grants, or contracts with small or micro-enterprises, Youth Conservation Corps work crews or related partnerships with State, local, and other non-Federal conservation corps.

(3) Funds to implement this section shall be derived from hazardous fuels operations funds.

(n) SUNSET.—The provisions of this section shall expire five years after the date of enactment of this Act, except that a project for which a decision notice, or memorandum 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. 4. INSECT INFESTATIONS.

(a) During fiscal years 2004 and 2008, the Secretaries jointly shall make available from funds otherwise available in the Treasury, without further appropriation, $25,000,000 each fiscal year to conduct a systematic information gathering program on certain insect types that have caused large-scale damage to forest ecosystems in order to complete research that can be applied to forest management treatment and product utilization.
(b) The Secretaries shall establish and carry out the program in cooperation with scientists from universities and forestry schools, State agencies, and private and industrial land owners. The Secretaries shall designate universities and forestry schools, including Land Grant Colleges and Universities and 1890 institutions, to carry out the program.

(c) The Secretaries shall ensure that the program includes research on—

(1) determining how to best use mechanical thinning and prescribed fire to modify fire behavior and reduce fire risk, and to improve the scientific basis for design, implementation and evaluation of hazardous fuels reduction treatments;

(2) gathering systematic information on insect types, including Emerald Ash Borers, Gypsy Moth, Red Oak Borers, Asian Longhorned Beetles, and Bark Beetles, that have caused large-scale damage to forest ecosystems, to establish early detection programs for insect and disease infestation in order to prevent massive breakouts, to determine the correlation between insect mortality and fire risk in specific forest types, and to test silvicultural systems that use integrated pest management; and
(3) developing new technologies and markets for value-added products that use the byproducts of insect infestation or hazardous fuels reduction treatments.

SEC. 5. FIREFIGHTER SAFETY AND TRAINING.

The Secretaries shall track funds expended for firefighter safety and training and including a line item for such expenditures in future budget requests.

SEC. 6. BORROWING AUTHORITY FOR FIRE SUPPRESSION.

(a) The Secretary of Agriculture may request up to $250 million in a fiscal year from the Secretary of the Treasury to cover fire suppression costs that exceed the amount of funding available to the Forest Service for fire suppression in a fiscal year.

(b) Upon such request, the Secretary of the Treasury shall make such sums available to the Secretary of Agriculture, without further appropriation.

(c) Upon amounts being appropriated by Congress to reimburse funds transferred to the Secretary of Agriculture pursuant to this section, such amounts shall be deposited in the Treasury.
SEC. 7. PROHIBITION ON THE COMPETITIVE SOURCING INITIATIVE.


SEC. 8. WILDFIRE RISK REDUCTION AND BURNED AREA RESTORATION.

(a) IN GENERAL.—During fiscal years 2004 through 2008, the Secretaries jointly shall make available from funds otherwise available in the Treasury, without further appropriation, $100,000,000 each fiscal year to reduce the risk of wildfire to structures and restore burned areas on tribal lands, nonindustrial private lands, and State lands using the authorities available pursuant to this section, the National Fire Plan and the Emergency Watershed Protection program.

(b) COST SHARE GRANTS.—In implementing this section, the Secretaries may make cost-share grants to Indian tribes, local fire districts, municipalities, homeowner associations, and counties, to remove, transport, and dispose of hazardous fuels around homes and property to—

(1) prevent structural damage as a result of wildfire, or

(2) to restore or rehabilitate burned areas on non-Federal lands.
(c) **NON-FEDERAL CONTRIBUTION.**—The non-Federal contribution may be in the form of cash or in-kind contribution.

(d) **PRIORITY.**—Priority for such funds shall be given to areas where the applicable local government has enacted ordinances for wildland areas requiring or promoting brush clearance around homes and requiring fire-retardant building materials for new construction.

(e) **AVAILABILITY OF FUNDS.**—Amounts appropriated in one fiscal year and unobligated before the end of that fiscal year shall remain available for use in subsequent fiscal years.

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