

110TH CONGRESS
2D SESSION

H. R. 5648

To amend the Cooperative Forestry Assistance Act of 1978 to establish a Federal wildland fire emergency suppression fund to facilitate accountable fire suppression activities by the Secretary of Agriculture and the Secretary of the Interior to unanticipated large fire events, to encourage enhanced management efficiencies and cost controls of wildland fire suppression, and to reduce the risk of catastrophic wildfire to communities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2008

Mr. GOODLATTE (for himself, Mr. PETERSON of Minnesota, Mr. YOUNG of Alaska, Mr. BISHOP of Utah, Mr. SALAZAR, Mr. SALI, and Mr. BACA) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Natural 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 amend the Cooperative Forestry Assistance Act of 1978 to establish a Federal wildland fire emergency suppression fund to facilitate accountable fire suppression activities by the Secretary of Agriculture and the Secretary of the Interior to unanticipated large fire events, to encourage enhanced management efficiencies and cost controls of wildland fire suppression, and to reduce the risk of catastrophic wildfire to communities, 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.**

4 This Act may be cited as the “Emergency Wildland
5 Fire Response Act of 2008”.

6 **SEC. 2. FEDERAL WILDLAND FIRE EMERGENCY SUPPRES-**

7 **SION FUND TO COVER COSTS OF CERTAIN**
8 **FEDERAL WILDLAND FIRE SUPPRESSION AC-**
9 **TIVITIES.**

10 The Cooperative Forestry Assistance Act of 1978 is
11 amended by inserting after section 10A (16 U.S.C. 2106c)
12 the following new section:

13 **“SEC. 10B. FEDERAL WILDLAND FIRE EMERGENCY SUP-**
14 **PRESSION FUND AND RESPONSE TO DE-**
15 **CLARED EMERGENCY WILDLAND FIRE INCI-**
16 **DENTS.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) APPROPRIATE MANAGEMENT RESPONSE.—
19 The term ‘appropriate management response’ means
20 a response plan to a wildland fire, based on an eval-
21 uation of risks to firefighter and public safety, land
22 and resource and fire management objectives, re-
23 source availability, the circumstances under which
24 the fire occurs, including weather and fuel condi-

1 tions, protection priorities, values to be protected,
2 and cost effectiveness.

3 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term ‘appropriate congressional com-
5 mittees’ means the Committee on Agriculture, the
6 Committee on Appropriations, the Committee on the
7 Budget, and the Committee on Natural Resources of
8 the House of Representatives and the Committee on
9 Agriculture, Nutrition, and Forestry, the Committee
10 on Appropriations, the Committee on the Budget,
11 and the Committee on Energy and Natural Re-
12 sources of the Senate.

13 “(3) DECLARED EMERGENCY WILDLAND FIRE
14 INCIDENT.—The term ‘declared emergency wildland
15 fire incident’ means a wildland fire incident declared
16 by the Secretary concerned under subsection (c).

17 “(4) FUND.—The term ‘Fund’ means the Fed-
18 eral Wildland Fire Emergency Suppression Fund es-
19 tablished by subsection (b).

20 “(5) SECRETARY CONCERNED.—The term ‘Sec-
21 retary concerned’ means the Secretary of Agri-
22 culture or the Secretary of the Interior.

23 “(6) WILDLAND FIRE OPERATIONS.—The term
24 ‘wildland fire operations’ means those predictable ac-
25 tivities of the Secretary concerned that are typically

1 performed annually as part of wildland fire pre-
2 paredness, anticipated wildland fire suppression
3 workload, and wildland fire operations, including
4 burned area emergency rehabilitation, associated
5 with a wildland fire incident that does not meet the
6 criteria specified in subsection (c).

7 “(b) FEDERAL WILDLAND FIRE EMERGENCY SUP-
8 PRESSION FUND.—

9 “(1) ESTABLISHMENT.—There is established in
10 the Treasury of the United States a fund to be
11 known as the ‘Federal Wildland Fire Emergency
12 Suppression Fund’, which shall be available to the
13 Secretary concerned, subject to subsection (d), to
14 cover the costs of Federal wildland fire suppression
15 activities associated with a declared emergency
16 wildland fire incident.

17 “(2) CONTENTS.—The Fund shall consist of
18 the following:

19 “(A) Amounts appropriated to the Fund.

20 “(B) Other emergency funds appropriated
21 for wildland fire suppression activities that the
22 Secretary concerned transfers to the Fund.

23 “(C) Subject to subsection (f)(3), other
24 funds transferred to the Fund.

1 “(D) Interest earned on amounts in the
2 Fund.

3 “(3) AVAILABILITY.—Amounts in the Fund
4 shall remain available until expended.

5 “(c) DECLARED EMERGENCY WILDLAND FIRE INCI-
6 DENTS.—

7 “(1) CRITERIA FOR DECLARATION.—The Sec-
8 retary concerned may declare a wildland fire incident
9 to be a declared emergency wildland fire incident for
10 which the costs of wildland fire suppression activities
11 may be covered using amounts in the Fund if the
12 Secretary concerned—

13 “(A) has wildland fire suppression respon-
14 sibilities for the incident that may be stipulated
15 in a cooperative agreement; and

16 “(B) determines, taking into consideration
17 the appropriate management response, that the
18 incident meets either of the following criteria:

19 “(i) SIZE AND SEVERITY.—The
20 wildland fire incident—

21 “(I) is at least 300 acres in size
22 or involves multiple fire incidents; and

23 “(II) has the potential for ex-
24 treme fire behavior.

1 “(ii) THREAT.—The wildland fire inci-
2 dent has the potential for loss of lives,
3 public and private property, watersheds,
4 wildlife, particularly endangered or threat-
5 ened species and their habitat, or severe
6 immediate economic impact to local com-
7 munities.

8 “(2) DELEGATION OF DECLARATION AUTHOR-
9 ITY.—A declared emergency wildland fire incident
10 shall be made only by the Secretary concerned or a
11 designee of the Secretary at the subcabinet level.

12 “(d) ANNUAL CONDITION ON USE OF FUND.—The
13 Secretary concerned may only access the Fund during a
14 fiscal year if the budget submitted to Congress under sec-
15 tion 1105(a) of title 31, United States Code, for that fiscal
16 year requested funds for the Secretary concerned for
17 wildland fire operations in an amount not less than the
18 10-fiscal year average of expenditures for wildland fire op-
19 erations by the Secretary concerned.

20 “(e) REPORTS ON FUND ACTIVITIES.—The Secre-
21 taries concerned shall submit to the appropriate congres-
22 sional committees a joint report every six months detailing
23 all expenditures from and deposits to the Fund during the
24 preceding six-month period, including a detailed account-
25 ing of expenditures associated with each declared emer-

1 gency wildland fire incident. Each report shall also be
2 made available to the public.

3 “(f) AUTHORIZATION OF APPROPRIATIONS.—

4 “(1) AUTHORIZATION OF APPROPRIATIONS.—
5 There is authorized to be appropriated to the Fund
6 such amounts as are necessary to maintain the
7 Fund at a level equal to the average annual costs in-
8 curred by the Secretaries concerned over the pre-
9 ceding five fiscal years for declared emergency
10 wildland fire incidents. If the five fiscal years used
11 in determining the average includes a fiscal year
12 that began before the date of the enactment of the
13 Emergency Wildland Fire Response Act of 2008, the
14 Secretaries concerned shall prepare an estimate for
15 that fiscal year of what the costs would have been
16 for declared emergency wildland fire incidents had
17 this section been in effect.

18 “(2) NOTICE OF INSUFFICIENT FUNDS.—The
19 Secretaries concerned shall notify the appropriate
20 congressional committees whenever only an esti-
21 mated two months worth of funding remains in the
22 Fund or for wildland fire operations of the Secre-
23 taries.

24 “(3) LIMITATION ON TRANSFERS FROM NON-
25 FIRE PROGRAM ACCOUNTS.—In addition to other re-

1 requirements applicable to the reprogramming of
2 funds, the Secretary concerned shall not transfer
3 funds from non-fire program accounts to cover
4 wildland fire suppression expenses unless the Fund
5 or amounts available for wildland fire operations for
6 that fiscal year have been depleted and a formal re-
7 quest to replenish the Fund or provide additional
8 amounts for wildland fire operations, whichever has
9 been depleted, has been submitted to the Committee
10 on Appropriations of the House of Representatives
11 and the Senate.

12 “(g) PROMOTION OF COST CONTAINMENT IN
13 WILDLAND FIRE SUPPRESSION.—

14 “(1) TRANSFER OF EXCESS FUNDS FOR REFOR-
15 ESTATION.—Subject to such limitations as may be
16 provided in appropriation Acts, the Secretary con-
17 cerned may transfer any funds of the Secretary con-
18 cerned for wildland fire operations that remain avail-
19 able at the end of a fiscal year to support reforest-
20 ation and rehabilitation of forests following wildland
21 fires. Such funds may only be expended in those
22 areas where the wildland fire suppression expendi-
23 tures were below the stratified cost index, or equiva-
24 lent measure, as determined by the Secretary con-
25 cerned. In this paragraph, the term ‘stratified cost

1 index' means a measure that compares actual ex-
2 penditures in connection with a wildfire incident to
3 the expenditures one would expect given certain
4 characteristics of the wildland fire, such as size, con-
5 ditions, fuel type, or proximity to communities.

6 “(2) REVIEW OF CERTAIN FIRES.—The Sec-
7 retary concerned shall conduct a review, using inde-
8 pendent panels, of each wildfire incident that results
9 in expenses to the Secretary concerned of greater
10 than \$10,000,000. The Secretary concerned shall
11 submit to the appropriate congressional committees
12 a report containing the results of each review.”.

13 SEC. 3. REDUCING THE RISK OF WILDFIRES TO PEOPLE,
14 PROPERTY, AND WATERSHEDS IN FIRE-
15 READY COMMUNITIES.

16 Section 10 of the Cooperative Forestry Assistance
17 Act of 1978 (16 U.S.C. 2106) is amended—

18 (1) by redesignating subsection (g) as sub-
19 section (h); and

20 (2) by inserting after subsection (f) the fol-
21 lowing new subsection (g):

22 "(g) SUPPORT FOR FIRE-READY COMMUNITIES.—

23 “(1) FIRE-READY COMMUNITY DEFINED.—In
24 this subsection, the term ‘fire-ready community’
25 means a community that—

1 “(A) is located within a priority area iden-
2 tified pursuant to subsection (b);

3 “(B) has a cooperative fire agreement that
4 articulates the roles and responsibilities for
5 Federal, State and local government entities in
6 local wildfire suppression and protection;

7 “(C) has local codes that require fire-re-
8 sistant home design and building materials; or

9 “(D) has a community wildfire protection
10 plan (as defined in section 101 of the Healthy
11 Forests Restoration Act of 2003 (16 U.S.C.
12 6502)) or similar plan acceptable to the Sec-
13 etary of Agriculture.

14 “(2) FIRE RISK MAPPING.—Not later than 180
15 days after the date of the enactment of the Emer-
16 gency Wildland Fire Response Act of 2008, the Sec-
17 etary shall develop a national map of landscape
18 areas most at risk of wildfire and in need of haz-
19 ardous fuel treatment and maintenance. The map
20 shall identify priority areas for hazardous fuels re-
21 duction projects, including—

22 “(A) at-risk communities in fire-prone
23 areas of the wildland-urban interface (as de-
24 fined in section 101 of the Healthy Forests
25 Restoration Act of 2003 (16 U.S.C. 6502));

1 “(B) watersheds and municipal drinking
2 water sources;

3 “(C) emergency evacuation corridors; and
4 “(D) electricity transmission corridors.

5 “(3) PRIORITY FOR FIRE-READY COMMU-
6 NITIES.—In allocating funds under this section and
7 other provisions of this Act and Healthy Forests
8 Restoration Act of 2003 under which the Secretary
9 provides resources to local communities for wildland
10 fire activities, the Secretary shall give priority to
11 fire-ready communities.

12 “(4) LOCAL WILDLAND FIREFIGHTING CAPA-
13 BILITY GRANTS.—

14 “(A) GRANTS AVAILABLE.—The Secretary
15 may provide cost-share grants to fire-ready
16 communities to increase their capacity to de-
17 fend the community from wildland fire and to
18 provide initial attack suppression response for
19 cross-boundary efforts adjacent to National
20 Forest System lands.

21 “(B) ELIGIBLE ACTIVITIES.—Grant funds
22 may be used for the following:

23 “(i) Education programs to raise
24 awareness of homeowners and citizens

1 about wildland fire protection practices, in-
2 cluding FireWise or similar programs.

12 “(C) AUTHORIZATION OF APPROPRIA-
13 TIONS.—There is authorized to be appropriated
14 to the Secretary to carry out this section such
15 sums as may be necessary.

16 “(5) WILDLAND FIRE COST-SHARE AGREE-
17 MENTS.—In developing any wildland fire cost-share
18 agreement with a State Forester or equivalent offi-
19 cial, the Secretary shall, to the greatest extent pos-
20 sible, encourage the State and local communities in-
21 volved to become fire-ready communities. When de-
22 termining cost-sharing responsibilities in any
23 wildland fire cost-share agreement with a State For-
24 ester or equivalent official, the Secretary shall con-
25 sider whether communities participating in the

1 agreement have become or are taking steps to be-
2 come fire-ready communities.”.

3 **SEC. 4. DEPARTMENT OF AGRICULTURE PARTNERSHIPS TO**
4 **REDUCE HAZARDOUS FUELS ON NATIONAL**
5 **FOREST SYSTEM LANDS.**

6 Section 10A of the Cooperative Forestry Assistance
7 Act of 1978 (16 U.S.C. 2106c) is amended—

8 (1) by redesignating subsection (d) as sub-
9 section (e); and

10 (2) by inserting after subsection (c) the fol-
11 lowing new subsection (d):

12 “(d) GOOD NEIGHBOR PARTNERSHIPS.—

13 “(1) DEFINITIONS.—In this subsection:

14 “(A) CONTRACT.—The term ‘contract’
15 means any contracting authority available to
16 the Secretary of Agriculture, including a sole
17 source contract or other agreement for the mu-
18 tual benefit of the Secretary and a State For-
19 ester or equivalent official.

20 “(B) GOOD NEIGHBOR PROJECT.—The
21 term ‘good neighbor project’ means any project
22 on National Forest System land that—

23 “(i) meets the requirements for haz-
24 ardous fuels reduction projects under sub-
25 sections (a), (d), (e), and (f) of section 102

1 of the Healthy Forests Restoration Act (16
2 U.S.C. 6512) and would reduce risk of
3 wildland fire or risk of insect or disease in-
4 festation to adjacent lands; or

8 “(2) PARTNERSHIP AUTHORITY.—The Sec-
9 retary may enter into contracts or cooperative agree-
10 ments with a State Forester, or equivalent official,
11 to prepare and implement good neighbor projects on
12 National Forest System land to complement any
13 similar project being performed on bordering or ad-
14 jacent non-Federal land. The decision to proceed
15 with a good neighbor project is in the Secretary’s
16 sole discretion.

17 “(3) STATE FORESTER OR EQUIVALENT OFFI-
18 CIAL AS AGENT.—A cooperative agreement or con-
19 tract under paragraph (2) may authorize the State
20 Forester or equivalent official to serve as the agent
21 for the Secretary in providing all services necessary
22 to facilitate the performance of good neighbor
23 projects, except that any decision with respect to a
24 good neighbor project required to be made under the
25 National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) may not be delegated to a
2 State Forester or equivalent official or any officer or
3 employee of the State Forester or equivalent official.

4 “(4) PROJECT REQUIREMENTS.—In imple-
5 menting any good neighbor project, the Secretary
6 shall ensure that—

7 “(A) the project is consistent with the ap-
8 plicable land and resource management plan de-
9 veloped under section 6 of the Forest and
10 Rangeland Renewable Resources Planning Act
11 of 1974 (16 U.S.C. 1604); and

12 “(B) the project improves the cost effi-
13 ciency of managing the National Forest System
14 land covered by the project, as determined by
15 the Secretary.

16 “(5) PRIORITY FOR COLLABORATIVE
17 PROJECTS.—The Secretary shall give priority to
18 good neighbor projects that are—

19 “(A) developed in collaboration with non-
20 governmental entities;

21 “(B) consistent with a community wildfire
22 protection plan (as defined in section 101 of the
23 Healthy Forests Restoration Act of 2003 (16
24 U.S.C. 6502)); or

1 “(C) prepared in a manner consistent with
2 the Implementation Plan for the Comprehensive
3 Strategy for a Collaborative Approach for Re-
4 ducing Wildland Fire Risks to Communities
5 and the Environment, dated May 2002, devel-
6 oped pursuant to the conference report to ac-
7 company the Department of the Interior and
8 Related Agencies Appropriations Act, 2001
9 (House Report No. 106–64), and subsequent
10 revisions of the implementation plan.

11 “(6) RELATION TO OTHER LAWS.—Subsections
12 (d) and (g) of section 14 of the National Forest
13 Management Act of 1976 (16 U.S.C. 472a) shall not
14 apply to a contract or other agreement under this
15 subsection.

16 “(7) SUBCONTRACTING BY A STATE FORESTER
17 OR EQUIVALENT OFFICIAL.—A State Forester or
18 equivalent official may subcontract to the extent al-
19 lowed by State and local law to prepare or imple-
20 ment a contract or other agreement under this sub-
21 section.”.

○