

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5541

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2008

Mr. RAHALL (for himself, Mr. GRIJALVA, and Mr. DICKS) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture and Budget, 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

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## A BILL

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Land Assist-  
3 ance, Management and Enhancement Act” or “FLAME  
4 Act”.

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

7 (a) DEFINITIONS.—In this section:

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

10 (A) Public lands, as defined in section 103  
11 of the Federal Land Policy and Management  
12 Act of 1976 (43 U.S.C. 1702).

13 (B) Units of the National Park System.

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

16 (D) Lands held in trust by the United  
17 States for the benefit of Indian tribes or indi-  
18 vidual Indians.

19 (E) Lands in the National Forest System,  
20 as defined in section 11(a) of the Forest and  
21 Rangeland Renewable Resources Planning Act  
22 of 1974 (16 U.S.C. 1609(a)).

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

1           (3) SECRETARY CONCERNED.—The term “Sec-  
2       retary concerned” means—

3           (A) the Secretary of the Interior, with re-  
4       spect to Federal land described in subpara-  
5       graphs (A), (B), (C), and (E) of paragraph (1);  
6       and

7           (B) the Secretary of Agriculture, with re-  
8       spect to National Forest System land.

9           (4) SECRETARIES.—The term “Secretaries”  
10      means the Secretary of the Interior and the Sec-  
11      retary of Agriculture, acting jointly.

12      (b) ESTABLISHMENT AND AVAILABILITY OF FLAME  
13      FUND.—

14           (1) ESTABLISHMENT.—There is established in  
15      the Treasury of the United States a fund to be  
16      known as the Federal Land Assistance, Manage-  
17      ment, and Enhancement Fund.

18           (2) CONTENTS.—The Flame Fund shall consist  
19      of the following amounts:

20           (A) Amounts appropriated to the Flame  
21      Fund pursuant to the authorization of appro-  
22      priations in subsection (c).

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

1           (C) Any interest earned on investment of  
2           amounts in the Flame Fund under paragraph  
3           (4).

4           (3) AVAILABILITY.—Subject to subsection (e),  
5           amounts in the Flame Fund shall be available to the  
6           Secretaries to pay the costs of catastrophic emer-  
7           gency wildland fire suppression activities that are  
8           separate from amounts annually appropriated to the  
9           Secretaries for the predicted annual workload for  
10          wildland fire suppression activities, based on anal-  
11          yses of historical workloads and anticipated in-  
12          creased workloads due to changing environmental or  
13          demographic conditions.

14          (4) INVESTMENT AUTHORITY.—The Secretary  
15          of the Treasury shall invest such portion of the as-  
16          sets of the Flame Fund as the Secretary of the  
17          Treasury determines is not required to meet antici-  
18          pated withdrawals during the then-current fiscal  
19          year or the next fiscal year. Investments may be  
20          made only in interest-bearing obligations of the  
21          United States.

22          (c) AUTHORIZATION OF APPROPRIATIONS.—

23                (1) AUTHORIZATION OF APPROPRIATIONS.—  
24                There is authorized to be appropriated to the Flame  
25                Fund for fiscal year 2009 and each subsequent fiscal

1 year an amount equal to the average amount ex-  
2 pended by the Secretaries for emergency wildland  
3 fire suppression activities over the five preceding fis-  
4 cal years.

5 (2) EMERGENCY DESIGNATION.—Amounts ap-  
6 propriated to the Flame Fund for fiscal year 2009  
7 are designated as an emergency requirement pursu-  
8 ant to section 501 of H. Con. Res. 376 (109th Con-  
9 gress), as made applicable to the House of Rep-  
10 resentatives by section 511(a)(4) of H. Res. 6  
11 (110th Congress), and for subsequent fiscal years  
12 pursuant to corresponding congressional resolutions  
13 authorizing the designation of emergency spending.

14 (d) TRANSFER OF EXCESS WILDLAND FIRE SUP-  
15 PRESSION AMOUNTS INTO FLAME FUND.—At the end of  
16 each fiscal year, the Secretary concerned shall transfer to  
17 the Flame Fund amounts appropriated to the Secretary  
18 concerned for wildland fire suppression activities for the  
19 fiscal year, but not obligated for wildland fire suppression  
20 activities before the end of the fiscal year.

21 (e) USE OF FLAME FUND.—

22 (1) DECLARATION REQUIRED.—Amounts in the  
23 Flame Fund shall be made available to the Secretary  
24 concerned only after the Secretaries issue a declara-

1       tion that a wildland fire suppression activity is eligi-  
2       ble for funding through the Flame Fund.

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

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

8                       (i) the size of the fire, including fires  
9                       of 300 acres or greater;

10                      (ii) the severity of the fire, which may  
11                      be based on incident complexity or the po-  
12                      tential for increased complexity; and

13                      (iii) the threat posed by the fire, in-  
14                      cluding the potential for loss of lives, prop-  
15                      erty, or critical resources.

16               (B) In the case of a firefighting season,  
17       cumulative wildland fire suppression activities,  
18       when the costs of those activities for the Sec-  
19       retary concerned are projected to exceed  
20       amounts annually appropriated.

21               (3) TRANSFER OF AMOUNTS TO SECRETARY  
22       CONCERNED.—After issuance of a declaration under  
23       paragraph (1) and upon the request of the Secretary  
24       concerned, the Secretary of the Treasury shall trans-  
25       fer from the Flame Fund to the Secretary concerned

1 such amounts as the Secretaries determine are nec-  
2 essary for wildland fire suppression activities associ-  
3 ated with the declared suppression emergency.

4 (4) STATE, PRIVATE, AND TRIBAL LAND.—Use  
5 of the Flame Fund for catastrophic emergency  
6 wildland fire suppression activities on State and pri-  
7 vate land and, where applicable, tribal land shall be  
8 consistent with existing agreements where the Secre-  
9 taries have agreed to assume responsibility for  
10 wildland fire suppression activities on the land.

11 (f) TREATMENT OF ANTICIPATED AND PREDICTED  
12 ACTIVITIES.—Notwithstanding the establishment of the  
13 Flame Fund, the Secretary concerned shall continue to  
14 fund anticipated and predicted wildland fire suppression  
15 activities within the appropriate agency budget for each  
16 fiscal year. Use of the additional funding made available  
17 through the Flame Fund is intended to supplement the  
18 budgeted and appropriated agency funding and is to be  
19 used only for purposes and in instances consistent with  
20 this section.

21 (g) PROHIBITION ON OTHER TRANSFERS.—All  
22 amounts in the Flame Fund, as well as all funds appro-  
23 priated for the purpose of wildland fire suppression on  
24 Federal land, must be obligated before the Secretary con-

1 cerned may transfer funds from non-fire accounts for  
2 wildland fire suppression.

3 (h) ACCOUNTING AND REPORTS.—

4 (1) ACCOUNTING AND REPORTING SYSTEM.—

5 The Secretaries shall establish an accounting and re-  
6 porting system for the Flame Fund compatible with  
7 existing National Fire Plan reporting procedures.

8 (2) ANNUAL REPORT.—The Secretaries shall  
9 submit to the Committee on Natural Resources and  
10 the Committee on Appropriations of the House of  
11 Representatives and the Committee on Energy and  
12 Natural Resources, the Committee on Indian Af-  
13 fairs, and the Committee on Appropriations of the  
14 Senate an annual report on the use of the funds  
15 from the Flame Fund, together with any rec-  
16 ommendations that the Secretaries may have to im-  
17 prove the administrative control and oversight of the  
18 Flame Fund.

19 **SEC. 3. COHESIVE WILDLAND FIRE MANAGEMENT STRAT-**  
20 **EGY.**

21 (a) STRATEGY REQUIRED.—Not later than one year  
22 after the date of the enactment of this Act, the Secretary  
23 of the Interior and the Secretary of Agriculture shall sub-  
24 mit to Congress a report that contains a cohesive wildland  
25 fire management strategy, consistent with the rec-

1 ommendations contained in recent Comptroller General re-  
2 ports regarding this issue.

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

7 (1) A system to identify the most cost effective  
8 means for allocating fire management budget re-  
9 sources.

10 (2) An illustration of plans by the Secretary of  
11 the Interior and the Secretary of Agriculture to rein-  
12 vest in non-fire programs.

13 (3) A description of how the Secretaries will  
14 employ appropriate management response.

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

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

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