

105TH CONGRESS  
1ST SESSION

# H. R. 2458

To provide new authority to the Secretary of Agriculture and the Secretary of the Interior to safeguard communities, lives, and property from catastrophic wildfire by eliminating hazardous fuels buildup, and to undertake other forest management projects to protect noncommodity resources, on Federal lands where wildlands abut, or are located in close proximity to, urban areas.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 1997

Mrs. CHENOWETH (for herself, Mr. HERGER, and Mr. BOB SCHAFFER of Colorado) 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

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## A BILL

To provide new authority to the Secretary of Agriculture and the Secretary of the Interior to safeguard communities, lives, and property from catastrophic wildfire by eliminating hazardous fuels buildup, and to undertake other forest management projects to protect noncommodity resources, on Federal lands where wildlands abut, or are located in close proximity to, urban areas.

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; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Community Protection and Hazardous Fuels Reduction  
 4 Act of 1997”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. Definitions.

**TITLE I—MANAGEMENT OF WILDLAND/URBAN INTERFACE  
 AREAS**

- Sec. 101. Identification of wildland/urban interface areas.
- Sec. 102. Contracting to reduce hazardous fuels and undertake forest management projects in wildland/urban interface areas.
- Sec. 103. Monitoring requirements.
- Sec. 104. Reporting requirements.
- Sec. 105. Termination of authority.

**TITLE II—FIRE DANGER REDUCTION BY REMOVAL OF  
 GRASSES AND FORBS**

- Sec. 201. Removal of excess levels of grasses and forbs.

**TITLE III—MISCELLANEOUS PROVISIONS**

- Sec. 301. Regulations.
- Sec. 302. Authorization of appropriations.

7 **SEC. 2. FINDINGS AND PURPOSE.**

8 (a) **FINDINGS.**—The Congress finds the following:

9 (1) Management of Federal lands has been  
 10 characterized by large cyclical variations in fire sup-  
 11 pression policies, timber harvesting levels, and the  
 12 attention paid to commodity and noncommodity val-  
 13 ues.

14 (2) Forests on Federal lands are experiencing  
 15 significant disease epidemics and insect infestations.

1           (3) The combination of inconsistent manage-  
2           ment and natural effects has resulted in a hazardous  
3           fuels buildup on Federal lands that threatens cata-  
4           strophic wildfire.

5           (4) While the long-term effect of catastrophic  
6           wildfire on forests and forest systems is a matter of  
7           debate, there should be no question that catastrophic  
8           wildfire must be prevented in areas of the Federal  
9           lands where wildlands abut, or are located in close  
10          proximity to, communities, residences, and other pri-  
11          vate and public facilities on non-Federal lands.

12          (5) Wildfire resulting from hazardous fuels  
13          buildup in such wildland/urban interface areas  
14          threatens the destruction of communities, puts  
15          human life and property at risk, threatens commu-  
16          nity water supplies with erosion that follows wildfire,  
17          destroys wildlife habitat, and damages ambient air  
18          quality.

19          (6) The Secretary of Agriculture and the Sec-  
20          retary of the Interior must assign a high priority  
21          and undertake aggressive management to achieve  
22          the elimination of hazardous fuel buildup and reduc-  
23          tion of the risk of wildfire to the wildland/urban  
24          interface areas on Federal lands. Protection of  
25          human life and property, including water supplies

1 and ambient air quality, must be given the highest  
2 priority.

3 (7) The noncommodity resources, including ri-  
4 parian zones and wildlife habitats, in wildland/urban  
5 interface areas on Federal lands which must be pro-  
6 tected to provide recreational opportunities, clean  
7 water, and other amenities to neighboring commu-  
8 nities and the public suffer from a backlog of un-  
9 funded forest management projects designed to pro-  
10 vide such protection.

11 (8) In a period of fiscal austerity characterized  
12 by shrinking budgets and personnel levels, Congress  
13 must provide the Secretary of Agriculture and the  
14 Secretary of the Interior with innovative tools to ac-  
15 complish the required reduction in hazardous fuels  
16 buildup and undertake other forest management  
17 projects in the wildland/urban interface areas on the  
18 Federal lands at least cost.

19 (b) PURPOSE.—The purpose of this Act is to provide  
20 new authority and innovative tools to the Secretary of Ag-  
21 riculture and the Secretary of the Interior to safeguard  
22 communities, lives, and property by reducing or eliminat-  
23 ing the threat of catastrophic wildfire, and to undertake  
24 needed forest management projects, in wildland/urban  
25 interface areas on Federal lands.

1 **SEC. 3. DEFINITIONS.**

2 As used in this Act:

3 (1) FEDERAL LANDS.—The term “Federal  
4 lands” means—

5 (A) federally managed lands administered  
6 by the Bureau of Land Management under the  
7 Secretary of the Interior; and

8 (B) federally managed lands administered  
9 by the Secretary of Agriculture.

10 (2) FOREST MANAGEMENT PROJECT.—The  
11 term “forest management project” means a project,  
12 including riparian zone enhancement, habitat im-  
13 provement, forage removal by livestock grazing or  
14 mechanical means, and soil stabilization or other  
15 water quality improvement project, designed to pro-  
16 tect one or more noncommodity resources on or in  
17 close proximity to Federal lands.

18 (3) LAND MANAGEMENT PLAN.—The term  
19 “land management plan” means the following:

20 (A) With respect to Federal lands de-  
21 scribed in paragraph (1)(A), a land use plan  
22 prepared by the Bureau of Land Management  
23 pursuant to section 202 of the Federal Land  
24 Policy and Management Act of 1976 (43 U.S.C.  
25 1712), or other multiple-use plan currently in  
26 effect.

1           (B) With respect to Federal lands de-  
2           scribed in paragraph (1)(B), a land and re-  
3           source management plan (or if no final plan is  
4           in effect, a draft land and resource manage-  
5           ment plan) prepared by the Forest Service pur-  
6           suant to section 6 of the Forest and Rangeland  
7           Renewable Resources Planning Act of 1974 (16  
8           U.S.C. 1604).

9           (4) SECRETARY CONCERNED.—The term “Sec-  
10          retary concerned” means—

11           (A) with respect to the Federal lands de-  
12           scribed in paragraph (1)(A), the Secretary of  
13           the Interior; and

14           (B) with respect to the Federal lands de-  
15           scribed in paragraph (1)(B), the Secretary of  
16           Agriculture.

17           (5) WILDLAND/URBAN INTERFACE AREA.—The  
18          term “wildland/urban interface area” means an area  
19          of Federal land in close proximity to communities  
20          and human habitations, such as homes, cabins, and  
21          other property.

22           (6) CONGRESSIONAL COMMITTEES.—The term  
23          “congressional committees” means the Committee  
24          on Resources and the Committee on Agriculture of  
25          the House of Representatives and the Committee on

1 Energy and Natural Resources and the Committee  
2 on Agriculture, Nutrition, and Forestry of the Sen-  
3 ate.

4 (7) HAZARDOUS FUELS BUILDUP.—The term  
5 “hazardous fuels buildup” means an accumulation of  
6 forage, woody debris, and predominantly dead and  
7 dying timber that has the likelihood of igniting.

8 **TITLE I—MANAGEMENT OF**  
9 **WILDLAND/URBAN INTER-**  
10 **FACE AREAS**

11 **SEC. 101. IDENTIFICATION OF WILDLAND/URBAN INTER-**  
12 **FACE AREAS.**

13 (a) ANNUAL IDENTIFICATION.—On or before Sep-  
14 tember 30 of each year, each District Manager of the Bu-  
15 reau of Land Management and each Forest Supervisor of  
16 the Forest Service shall identify those areas on Federal  
17 lands within the jurisdiction of the District Manager or  
18 Forest Supervisor that the District Manager or Forest Su-  
19 pervisor determines—

20 (1) meet the definition of wildland/urban inter-  
21 face areas; and

22 (2) have hazardous fuels buildups and other  
23 forest management needs that warrant the use of  
24 forest management projects as provided in section  
25 102.

1 (b) TREATMENT OF IDENTIFICATION PROCESS.—  
2 The identification of wildland/urban interface areas under  
3 subsection (a) that have hazardous fuels buildups and  
4 other forest management needs that warrant the use of  
5 forest management projects as provided in section 102  
6 shall not be considered to be agency action for purposes  
7 of paragraph (2)(A) or (2)(E) of section 102 of the Na-  
8 tional Environmental Policy Act of 1969 (42 U.S.C.  
9 4332).

10 **SEC. 102. CONTRACTING TO REDUCE HAZARDOUS FUELS**  
11 **AND UNDERTAKE FOREST MANAGEMENT**  
12 **PROJECTS IN WILDLAND/URBAN INTERFACE**  
13 **AREAS.**

14 (a) CONTRACTING AUTHORITY.—

15 (1) IN GENERAL.—The Secretary concerned is  
16 authorized to enter into contracts under this section  
17 for the sale of forest products in a wildland/urban  
18 interface area identified under section 101 for the  
19 purpose of reducing hazardous fuels buildups in the  
20 area.

21 (2) INCLUSION OF FOREST MANAGEMENT  
22 PROJECTS.—Subject to paragraph (3), the Secretary  
23 concerned may require, as a condition of any sale of  
24 forest products referred to in paragraph (1), that  
25 the purchaser of such products undertake one or

1 more forest management projects in the wildland/  
2 urban interface area.

3 (3) CONDITIONS ON INCLUSION.—The Sec-  
4 retary concerned may include a forest management  
5 project as a condition in a contract for the sale of  
6 forest products referred to in paragraph (1) only  
7 when the Secretary determines that—

8 (A) the forest management project is con-  
9 sistent with the applicable land management  
10 plan; and

11 (B) the objectives of the forest manage-  
12 ment project can be accomplished most cost ef-  
13 ficiently and effectively when the project is per-  
14 formed as part of the sale contract.

15 (b) FINANCING AND SUPPLEMENTAL FUNDING.—

16 (1) FOREST MANAGEMENT CREDITS.—The fi-  
17 nancing of a forest management project required as  
18 a condition of a contract for a sale authorized by  
19 subsection (a) shall be accomplished through the in-  
20 clusion in the contract of a provision for amortiza-  
21 tion of the cost of the forest management project  
22 through the issuance of forest management credits  
23 to the purchaser. Such forest management credits  
24 shall offset the cost of the required forest manage-

1       ment project against the purchaser's payment for  
2       forest products.

3               (2) USE OF APPROPRIATED FUNDS.—The Sec-  
4       retary concerned may use appropriated funds to as-  
5       sist the purchaser to undertake a forest management  
6       project required as a condition of a contract author-  
7       ized by subsection (a) if such funds are provided  
8       from the resource function or functions that directly  
9       benefit from the performance of the project and are  
10      available from the annual appropriation for such  
11      function or functions during the fiscal year in which  
12      the sale is offered. The amount of assistance to be  
13      provided for each forest management project shall be  
14      included in the prospectus, and published in the ad-  
15      vertisement, for the sale.

16              (c) DETERMINATION OF FOREST MANAGEMENT  
17      CREDITS.—Prior to the advertisement of a sale authorized  
18      by subsection (a), the Secretary concerned shall determine  
19      the amount of forest management credits to be allocated  
20      to each forest management project to be required as a con-  
21      dition of the sale contract. A description of the forest man-  
22      agement project, and the amount of the forest manage-  
23      ment credits allocated to the project, shall be included in  
24      the prospectus, and published in the advertisement, for the  
25      sale.

1 (d) TRANSFER OF FOREST MANAGEMENT CRED-  
2 ITS.—The Secretary concerned may permit a purchaser  
3 that holds forest management credits earned by the pur-  
4 chaser as part of a sale authorized by subsection (a), but  
5 not used in connection with that sale, to transfer the forest  
6 management credits to another sale authorized by sub-  
7 section (a) if—

8 (1) the subsequent sale is also purchased by  
9 that purchaser; and

10 (2) the sale parcel is located on Federal lands  
11 under that Secretary's jurisdiction.

12 (e) TREATMENT OF FOREST MANAGEMENT CREDITS  
13 AS MONEYS RECEIVED.—

14 (1) BUREAU OF LAND MANAGEMENT LANDS.—

15 In the case of Federal lands described in section  
16 3(1)(A), all amounts earned by or allowed to any  
17 purchaser of a sale authorized by subsection (a) in  
18 the form of forest management credits shall be con-  
19 sidered to be money received for purposes of title II  
20 of the Act of August 28, 1937 (50 Stat. 875; 43  
21 U.S.C. 1181f), the first section of the Act of May  
22 24, 1939 (53 Stat. 753; 43 U.S.C. 1181f-1), or  
23 other applicable law concerning the distribution of  
24 receipts from the sale of forest products on such  
25 lands.

1           (2) FOREST SYSTEM LANDS.—In the case of  
2 Federal lands described in section 3(1)(B), all  
3 amounts earned by or allowed to any purchaser of  
4 a sale authorized by subsection (a) in the form of  
5 forest management credits shall be considered to be  
6 money received for purposes of the sixth paragraph  
7 under the heading “FOREST SERVICE” in the Act  
8 of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500) and  
9 section 13 of the Act of March 1, 1911 (36 Stat.  
10 963; commonly known as the Weeks Act; 16 U.S.C.  
11 500).

12       (f) COST CONSIDERATIONS.—Because of the strong  
13 concern for the safety of human life and property and the  
14 protection of water quality, air quality, and wildlife habi-  
15 tat, a sale authorized by subsection (a) shall not be pre-  
16 cluded because the costs of the sale may exceed the reve-  
17 nues derived from the sale, nor shall such sales be consid-  
18 ered in any calculations concerning the revenue effects of  
19 the forest products sales program for the Federal lands  
20 or units of the Federal lands.

21       (g) OTHER REQUIREMENTS.—Nothing in this title  
22 shall be construed to require or authorize any alteration  
23 in the procedures or requirements for sales of forest prod-  
24 ucts otherwise authorized by law, including the applicable  
25 provisions of the small business set-aside program.

1 **SEC. 103. MONITORING REQUIREMENTS.**

2       The Secretary concerned shall monitor the prepara-  
3 tion and offering of contracts, and the performance of for-  
4 est management projects, pursuant to section 102 to de-  
5 termine the effectiveness of such contracts and forest  
6 management projects in achieving the purpose of this Act.

7 **SEC. 104. REPORTING REQUIREMENTS.**

8       (a) ANNUAL REPORT.—Not later than 90 days after  
9 the end of each full fiscal year in which contracts are en-  
10 tered into under section 102, the Secretary concerned shall  
11 submit to the congressional committees a report, which  
12 shall provide for the Federal lands within the jurisdiction  
13 of the Secretary concerned the following:

14           (1) A list of the wildland/urban interface areas  
15 identified on or before September 30 of the previous  
16 fiscal year pursuant to section 101.

17           (2) A summary of all contracts entered into,  
18 and all forest management projects performed, pur-  
19 suant to section 102 during the preceding fiscal  
20 year;

21           (3) A discussion of any delays in excess of three  
22 months encountered during the preceding fiscal year,  
23 and likely to occur in the fiscal year in which the re-  
24 port is submitted, in preparing and offering the  
25 sales, and in performing the forest management  
26 projects, pursuant to section 102.

1           (4) The results of the monitoring required by  
2           section 103 of the contracts authorized, and the for-  
3           est management projects performed, pursuant to  
4           section 102.

5           (5) Any anticipated problems in the implemen-  
6           tation of this title.

7           (b) **FOUR YEAR REPORT.**—The fourth report pre-  
8           pared by the Secretary concerned under subsection (a)  
9           shall contain, in addition to the matters required by sub-  
10          section (a), the following:

11           (1) An assessment by the Secretary concerned  
12          regarding whether the contracting authority pro-  
13          vided in section 102 should be reauthorized beyond  
14          the period specified in section 105(a).

15           (2) If reauthorization is warranted, such rec-  
16          ommendations as the Secretary concerned considers  
17          appropriate regarding changes in such authority to  
18          better achieve the purpose of this Act.

19   **SEC. 105. TERMINATION OF AUTHORITY.**

20          (a) **TERMINATION DATE.**—The authority of the Sec-  
21          retary concerned to offer sales of forest products pursuant  
22          to section 102, and to require the purchasers of such prod-  
23          ucts to undertake forest management projects as a condi-  
24          tion of such sales, shall terminate at the end of the five-

1 fiscal year beginning on the first October 1st occurring  
2 after the date of the enactment of this Act.

3 (b) EFFECT ON EXISTING SALES.—Any contract for  
4 a sale of forest products pursuant to section 102 entered  
5 into before the end of the period specified in subsection  
6 (a), and still in effect at the end of such period, shall re-  
7 main in effect after the end of such period pursuant to  
8 the terms of the contract.

9 (c) EFFECT ON EXISTING FOREST MANAGEMENT  
10 CREDITS.—If any forest management credits from a sale  
11 of forest products pursuant to section 102 are not used  
12 before the end of the period specified in subsection (a),  
13 and no law providing authority to offer sales pursuant to  
14 section 102 after such period is enacted by Congress, such  
15 credits may be used after such period in any sale of forest  
16 products that is authorized by another law, is purchased  
17 by the purchaser of the sale in which the credits were  
18 earned, and is conducted by the Secretary concerned who  
19 had jurisdiction over the sale in which the credits were  
20 earned.

1 **TITLE II—FIRE DANGER REDUC-**  
2 **TION BY REMOVAL OF**  
3 **GRASSES AND FORBS**

4 **SEC. 201. REMOVAL OF EXCESS LEVELS OF GRASSES AND**  
5 **FORBS.**

6 (a) **CONTRACTING AUTHORITY.**—Whenever a county  
7 commission or other unit of local government certifies to  
8 the Secretary concerned that there is a danger of fire in  
9 a wildland/urban interface area as a result of excessive lev-  
10 els of grasses and forbs on Federal lands in the area and  
11 requests the removal of the excessive grasses and forbs,  
12 the Secretary is authorized and encouraged to enter into  
13 contracts with livestock operators or other parties for the  
14 removal of the excessive grasses and forbs.

15 (b) **REMOVAL METHODS.**—In the case of a contract  
16 under subsection (a) with a livestock operator, the opera-  
17 tor shall use grazing to remove the excessive grasses and  
18 forbs. In the case of contracts with other persons, mechan-  
19 ical means, such as discing or mechanical mowing, shall  
20 be used.

21 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There  
22 are authorized to be appropriated such sums as are nec-  
23 essary to carry out this section.

1       **TITLE III—MISCELLANEOUS**  
2                               **PROVISIONS**

3   **SEC. 301. REGULATIONS.**

4       Not later than 180 days after the date of the enact-  
5   ment of this Act, the Secretary concerned shall prescribe  
6   such regulations as are necessary and appropriate to im-  
7   plement this Act.

8   **SEC. 302. AUTHORIZATION OF APPROPRIATIONS.**

9       There are authorized to be appropriated for each of  
10   the first five fiscal years beginning after the date of the  
11   enactment of this Act such sums as may be necessary to  
12   carry out this Act.

○