

108TH CONGRESS
1ST SESSION

H. R. 2551

To amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2003

Mr. SIMPSON (for himself and Mr. OTTER) introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1.

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 “Enhanced Safety from
3 Wildfire Act of 2003”.

4 **SEC. 2. UNITED STATES LIABILITY FOR DAMAGES RESULT-**
5 **ING FROM THE SPREAD OF WILDFIRE FROM**
6 **FORESTED PUBLIC LANDS.**

7 (a) IMPOSITION OF LIABILITY FOR SPREAD OF
8 WILDFIRE.—Title III of the Federal Land Policy and
9 Management Act of 1976 is amended by inserting after
10 section 318 (43 U.S.C. 1748) the following new section:

11 **“SEC. 319. LIABILITY FOR DAMAGES RESULTING FROM**
12 **SPREAD OF WILDFIRE FROM PUBLIC LANDS**
13 **OR NATIONAL FOREST SYSTEM LANDS.**

14 “(a) LIABILITY AS RULE OF LAW.—Except as pro-
15 vided in subsections (b), (c), and (d), and subject to the
16 delayed effective date specified in subsection (g), any in-
17 jury to or loss of property that occurs on non-Federal
18 lands as a direct result of a fire that spread from forested
19 Federal lands onto the non-Federal lands, either directly
20 or by first spreading to other non-Federal lands, shall be
21 deemed to be an injury or loss of property caused by the
22 negligent or wrongful act or omission of an employee of
23 the United States while acting within the scope of the em-
24 ployee’s office or employment for purposes of section 1346
25 and chapter 171 of title 28, United States Code (com-
26 monly known as the ‘Federal Tort Claims Act’).

1 “(b) ADDITIONAL REQUIREMENT FOR CERTAIN
2 NON-FEDERAL LANDS.—

3 “(1) NON-FEDERAL LANDS USED FOR COMMER-
4 CIAL TIMBER PRODUCTION.—The owner or leasee of
5 non-Federal lands damaged by the spread of wildfire
6 from forested Federal lands may not utilize the rule
7 of law specified in subsection (a) when the non-Fed-
8 eral lands exceed 640 acres and are used for the
9 commercial production of timber, unless the owner
10 or leasee proves that the damaged non-Federal lands
11 were being managed to achieve or maintain the for-
12 est health status known as condition class 1 imme-
13 diately before the fire.

14 “(2) ROLE OF STATE FORESTER.—In the event
15 of a dispute between the owner or leasee and the
16 Secretary concerned regarding the status before the
17 fire of non-Federal lands subject to paragraph (1),
18 the determination of the State Forester of the State
19 in which the lands are located shall control. Any ex-
20 penses incurred by the State Forester to make the
21 determination shall be equally divided between the
22 Secretary concerned and the owner or leasee.

23 “(c) EXCLUSION OF CONDITION CLASS 1 LANDS.—
24 The rule of law specified in subsection (a) shall not apply
25 if the forested Federal lands within the buffer zone adja-

1 cent to the Federal land boundary from which the fire
2 spread to non-Federal lands were managed as condition
3 class 1 immediately before the fire.

4 “(d) EXCLUSION OF OTHER FEDERAL LANDS.—The
5 rule of law specified in subsection (a) shall not apply to
6 the following Federal lands, even though wildfire may
7 originate on such lands and spread to adjacent non-Fed-
8 eral lands:

9 “(1) A component of the National Wilderness
10 Preservation System.

11 “(2) Federal lands where, by Act of Congress,
12 Presidential proclamation, or land and resource
13 management plan, the removal of vegetation is pro-
14 hibited.

15 “(3) Areas of Federal lands that comprise less
16 than 6,400 acres and are not contiguous to other
17 Federal lands.

18 “(e) REPORT REGARDING STATUS OF BUFFER
19 LANDS.—Not later than two years after the date of the
20 enactment of this section, the Secretary concerned shall
21 submit to Congress a report describing the forest health
22 status of all buffer zones with non-Federal lands and the
23 extent to which the buffer zones are in, or are being man-
24 aged to achieve, the forest health status known as condi-
25 tion class 1.

1 “(f) DEFINITIONS.—In this section:

2 “(1) The term ‘buffer zone’ refers to those for-
3 ested Federal lands that are within a prescribed dis-
4 tance of a Federal land boundary with non-Federal
5 lands and comprise, or are part of a larger area of
6 Federal lands comprising, 6,400 acres or more. The
7 Secretary shall prescribe the actual buffer zone for
8 a particular area of forested Federal lands based on
9 the geography, topography, and forest cover of the
10 lands.

11 “(2) The term ‘condition class 1’, with respect
12 to an area of forested Federal lands or non-Federal
13 lands, means that the lands are managed so that—

14 “(A) fire regimes on the lands are within
15 historical ranges;

16 “(B) vegetation composition and structure
17 are intact; and

18 “(C) the risk of losing key ecosystem com-
19 ponents from the occurrence of fire remains rel-
20 atively low.

21 “(3) The term ‘forested Federal lands’ means
22 public lands and National Forest System lands that
23 contain trees as a significant component of the
24 lands.

1 “(4) The term ‘Secretary concerned’ means the
2 Secretary of the Interior (or the designee of that
3 Secretary) with respect to public lands and the Sec-
4 retary of Agriculture (or the designee of that Sec-
5 retary) with respect to National Forest System
6 lands.

7 “(g) DELAYED EFFECTIVE DATE.—The rule of law
8 specified in subsection (a) shall take effect at the end of
9 the eight-year period beginning on the date of the enact-
10 ment of this section and apply with respect to fires that
11 spread from Federal lands onto non-Federal lands after
12 the end of such period.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 at the beginning of the Federal Land Policy and Manage-
15 ment Act of 1976 is amended by inserting after the item
16 relating to section 318 the following new item:

“Sec. 319. Liability for damages resulting from spread of wildfire from public
lands or National Forest System lands.”.

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