

108TH CONGRESS  
1ST SESSION

# S. 1449

To improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to prepare and conduct hazardous fuels reduction projects on National Forest System land and Bureau of Land Management land that are aimed at protecting communities, watersheds, and certain other at-risk land from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health on public and private land, including catastrophic wildfire, to increase research on forest health and forest-damaging agents, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 23 (legislative day, JULY 21), 2003

Mr. CRAPO (for himself and Mrs. LINCOLN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to prepare and conduct hazardous fuels reduction projects on National Forest System land and Bureau of Land Management land that are aimed at protecting communities, watersheds, and certain other at-risk land from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health on public and private land, including catastrophic wildfire, to increase research on forest health and forest-damaging agents, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
 5 “America’s Healthy Forest Restoration and Research  
 6 Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

Sec. 3. Definitions.

**TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LAND**

Sec. 101. Findings.

Sec. 102. Definitions.

Sec. 103. Authorized hazardous fuels reduction projects.

Sec. 104. Prioritization for communities and watersheds.

Sec. 105. Environmental analysis.

Sec. 106. Special Forest Service administrative review process.

Sec. 107. Special requirements regarding judicial review of authorized haz-  
 ardous fuels reduction projects.

Sec. 108. Standard for injunctive relief for agency action to restore fire-adapted  
 forest or rangeland ecosystems.

Sec. 109. Local preference contracting.

Sec. 110. Effect of title.

**TITLE II—BIOMASS**

Sec. 201. Findings.

Sec. 202. Definitions.

Sec. 203. Grants to improve the commercial value of forest biomass for electric  
 energy, useful heat, transportation fuels, petroleum-based prod-  
 uct substitutes, and for other commercial purposes.

Sec. 204. Reporting requirement.

**TITLE III—WATERSHED FORESTRY ASSISTANCE**

Sec. 301. Findings and purposes.

Sec. 302. Watershed forestry assistance program.

**TITLE IV—RESEARCH**

**Subtitle A—General Provisions**

Sec. 401. Findings and purposes.

Sec. 402. Definitions.

Sec. 403. Cooperation and assistance.

Sec. 404. Relation to other laws.

Subtitle B—Accelerated Information Gathering and Applied Silvicultural Research

Sec. 411. Accelerated information gathering.

Sec. 412. Applied silvicultural research.

Sec. 413. Authorization of appropriations.

Subtitle C—Forest Stands Inventory and Monitoring

Sec. 421. Forest land inventory and monitoring program to improve detection of and response to environmental threats.

Subtitle D—Biomass

Sec. 431. Improved biomass use research program.

Subtitle E—Revitalization and Research

Sec. 441. Rural revitalization through forestry.

Sec. 442. Upland Hardwoods Research Center.

TITLE V—HEALTHY FORESTS RESERVE PROGRAM

Sec. 501. Establishment of healthy forests reserve program.

Sec. 502. Eligibility and enrollment of land in program.

Sec. 503. Restoration plans.

Sec. 504. Financial assistance.

Sec. 505. Technical assistance.

Sec. 506. Assurances and measures.

Sec. 507. Involvement by other agencies and organizations.

Sec. 508. Authorization of appropriations.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Program for emergency treatment and reduction of nonnative invasive plants.

Sec. 602. Sense of Congress regarding enhanced community fire protection.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to reduce the risks and severity of damage  
4 to communities, municipal water supplies, and cer-  
5 tain at-risk Federal land from catastrophic wildfires,  
6 insects, disease, and other damaging agents;

7 (2) to authorize grant programs to improve the  
8 commercial value of forest biomass that otherwise

1 contributes to the risk of catastrophic fire or insect  
2 or disease infestation for producing electric energy,  
3 useful heat, transportation fuels, and petroleum-  
4 based product substitutes, and for other commercial  
5 purposes;

6 (3) to enhance efforts to protect watersheds and  
7 address threats to forest and rangeland health, in-  
8 cluding catastrophic wildfire, across the landscape;

9 (4) to promote systematic gathering of informa-  
10 tion to address the impact of fire, insect and disease  
11 infestations, and other damaging agents on forest  
12 and rangeland health;

13 (5) to improve the capacity to detect insect and  
14 disease infestations at an early stage, particularly  
15 with respect to hardwood forests;

16 (6) to advance research to improve the use of  
17 biomass and hardwood species;

18 (7) to restore and enhance components of the  
19 forest ecosystem—

20 (A) to promote the recovery of threatened  
21 and endangered species;

22 (B) to improve biological diversity; and

23 (C) to enhance productivity and carbon se-  
24 questration; and

1           (8) to authorize a grant program to address the  
2           threat of catastrophic fire resulting from infestation  
3           by nonnative species.

4 **SEC. 3. DEFINITIONS.**

5           In this Act:

6           (1) FEDERAL LAND.—The term “Federal land”  
7           means—

8                   (A) land of the National Forest System (as  
9                   defined in section 11(a) of the Forest and  
10                   Rangeland Renewable Resources Planning Act  
11                   of 1974 (16 U.S.C. 1609(a))) administered by  
12                   the Secretary of Agriculture, acting through the  
13                   Chief of the Forest Service; and

14                   (B) public lands (as defined in section 103  
15                   of the Federal Land Policy and Management  
16                   Act of 1976 (43 U.S.C. 1702)), the surface of  
17                   which is administered by the Secretary of the  
18                   Interior, acting through the Director of the Bu-  
19                   reau of Land Management.

20           (2) INDIAN TRIBE.—The term “Indian tribe”  
21           has the meaning given the term in section 4 of the  
22           Indian Self-Determination and Education Assistance  
23           Act (25 U.S.C. 450b).

1       **TITLE I—HAZARDOUS FUELS**  
2       **REDUCTION ON FEDERAL LAND**

3       **SEC. 101. FINDINGS.**

4       Congress finds that—

5               (1) thousands of communities in the United  
6       States, many of which are located near Federal land,  
7       are at risk of wildfire;

8               (2) approximately 190,000,000 acres of land  
9       managed by the Secretary of Agriculture and the  
10      Secretary of the Interior are at risk of catastrophic  
11      fire in the near future;

12              (3) the accumulation of heavy forest and range-  
13      land fuel loads continues to increase as a result of  
14      fire exclusion disease, insect infestations, and  
15      drought, further raising the risk of fire each year  
16      and increasing the threats to homes, businesses, and  
17      community watersheds;

18              (4) more than 70,000,000 acres of publicly and  
19      privately owned land are at risk of experiencing  
20      higher-than-normal mortality rates over the next 15  
21      years as a result of insect infestation and disease;

22              (5) high rates of tree mortality from insects  
23      and disease result in increased fire risk, degraded  
24      watershed conditions, and changes in species diver-

1       sity and productivity, as well as diminished fish and  
2       wildlife habitat and decreased timber values;

3           (6) preventive treatments, such as reducing fuel  
4       loads, crown density, ladder fuels, and hazard trees,  
5       planting proper species mixtures, restoring, pro-  
6       tecting, and maintaining habitats in a diverse array  
7       of seral stages, and other specific restoration treat-  
8       ments designed to reduce the susceptibility of forest  
9       and rangeland to insect outbreaks, disease, and cata-  
10      strophic fire present the greatest opportunity for  
11      long-term forest and rangeland health by creating a  
12      mosaic of species-mix and age distribution; and

13           (7) those prevention treatments are widely ac-  
14      knowledged to be more successful and cost-effective  
15      than suppression treatments in the case of insects,  
16      disease, and fire.

17 **SEC. 102. DEFINITIONS.**

18       In this title:

19           (1) **AUTHORIZED HAZARDOUS FUELS REDUC-**  
20      **TION PROJECT.**—The term “authorized hazardous  
21      fuels reduction project” means a hazardous fuels re-  
22      duction project on Federal land described in section  
23      103(a) that is planned and conducted in accordance  
24      with sections 105 and 106.

1           (2) CONDITION CLASS 2.—The term “condition  
2           class 2”, with respect to an area of Federal land,  
3           means the condition class description developed by  
4           the Forest Service Rocky Mountain Research Sta-  
5           tion in the general technical report entitled “Devel-  
6           opment of Coarse-Scale Spatial Data for Wildland  
7           Fire and Fuel Management” (RMRS–87), dated  
8           April 2000 (including any subsequent revision to the  
9           report), under which—

10                   (A) fire regimes on the land have been  
11                   moderately altered from historical ranges;

12                   (B) there exists a moderate risk of losing  
13                   key ecosystem components from fire;

14                   (C) fire frequencies have increased or de-  
15                   creased from historical frequencies by 1 or more  
16                   return intervals, resulting in moderate changes  
17                   to—

18                           (i) the size, frequency, intensity, or se-  
19                           verity of fires; or

20                           (ii) landscape patterns; and

21                   (D) vegetation attributes have been mod-  
22                   erately altered from the historical range of the  
23                   attributes.

24           (3) CONDITION CLASS 3.—The term “condition  
25           class 3”, with respect to an area of Federal land,

1 means the condition class description developed by  
2 the Rocky Mountain Research Station in the general  
3 technical report referred to in paragraph (2) (includ-  
4 ing any subsequent revision to the report), under  
5 which—

6 (A) fire regimes on land have been signifi-  
7 cantly altered from historical ranges;

8 (B) there exists a high risk of losing key  
9 ecosystem components from fire;

10 (C) fire frequencies have departed from  
11 historical frequencies by multiple return inter-  
12 vals, resulting in dramatic changes to—

13 (i) the size, frequency, intensity, or se-  
14 verity of fires; or

15 (ii) landscape patterns; and

16 (D) vegetation attributes have been signifi-  
17 cantly altered from the historical range of the  
18 attributes.

19 (4) DAY.—The term “day” means—

20 (A) a calendar day; or

21 (B) if a deadline imposed by this title  
22 would expire on a nonbusiness day, the end of  
23 the next business day.

24 (5) DECISION DOCUMENT.—The term “decision  
25 document” means a decision notice or record of deci-

1 sion, as those terms are used in applicable regula-  
2 tions of the Council on Environmental Quality and  
3 the Forest Service Handbook.

4 (6) HAZARDOUS FUELS REDUCTION  
5 PROJECT.—The term “hazardous fuels reduction  
6 project” means the measures and methods described  
7 in the definition of “appropriate tools” contained in  
8 the glossary of the Implementation Plan.

9 (7) IMPLEMENTATION PLAN.—The term “Im-  
10 plementation Plan” means the Implementation Plan  
11 for the 10-year Comprehensive Strategy for a Col-  
12 laborative Approach for Reducing Wildland Fire  
13 Risks to Communities and the Environment, dated  
14 May 2002, which was developed in accordance with  
15 the Department of the Interior and Related Agencies  
16 Appropriations Act, 2001 (Public Law 106–291)  
17 (including any subsequent revision to the Plan).

18 (8) INTERFACE COMMUNITY.—The term “inter-  
19 face community” has the meaning given the term in  
20 the notice published at 66 Fed. Reg. 751 (January  
21 4, 2001) (including any subsequent revision to the  
22 notice).

23 (9) INTERMIX COMMUNITY.—The term  
24 “intermix community” has the meaning given the  
25 term in the notice published at 66 Fed. Reg. 751

1 (January 4, 2001) (including any subsequent revision to the notice).

3 (10) MUNICIPAL WATERSHED.—The term “municipal watershed” means the land, waterways, impoundments, and storage areas used to collect and distribute drinking water to a community.

7 (11) RESOURCE MANAGEMENT PLAN.—The term “resource management plan” means—

9 (A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in paragraph 11 (6)(A) under section 6 of the Forest and Rangeland Renewable Resources Planning Act 13 of 1974 (16 U.S.C. 1604); or

15 (B) a land use plan prepared for 1 or more units of the public land described in paragraph 17 (6)(B) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 19 1712).

20 (12) SECRETARY.—The term “Secretary” means—

22 (A) the Secretary of Agriculture, with respect to land of the National Forest System described in section (3)(1)(A); and

1 (B) the Secretary of the Interior, with re-  
 2 spect to public lands described in section  
 3 3(1)(B).

4 (13) THREATENED AND ENDANGERED SPECIES  
 5 HABITAT.—The term “threatened and endangered  
 6 species habitat” means Federal land identified in—

7 (A) a determination that a species is an  
 8 endangered species or a threatened species  
 9 under the Endangered Species Act of 1973 (16  
 10 U.S.C. 1531 et seq.);

11 (B) a designation of critical habitat of the  
 12 species under that Act; or

13 (C) a recovery plan prepared for the spe-  
 14 cies under that Act.

15 **SEC. 103. AUTHORIZED HAZARDOUS FUELS REDUCTION**  
 16 **PROJECTS.**

17 (a) AUTHORIZED PROJECTS.—The Secretary may  
 18 prepare and conduct hazardous fuels reduction projects  
 19 on—

20 (1) Federal land located in an interface commu-  
 21 nity or intermix community;

22 (2) Federal land located in such proximity to an  
 23 interface community or intermix community that  
 24 there is a significant risk that the spread of a fire  
 25 disturbance event from that land would threaten

1 human life or property in proximity to or within the  
2 interface community or intermix community;

3 (3) condition class 3 or condition class 2 Fed-  
4 eral land located in such proximity to a municipal  
5 watershed, water supply system or a stream feeding  
6 a municipal water supply system that a significant  
7 risk exists that a fire disturbance event would have  
8 adverse effects on the water quality of the municipal  
9 water supply or the maintenance of the system, in-  
10 cluding the risk to water quality posed by erosion  
11 following such a fire disturbance event;

12 (4) Federal land on which the existence or  
13 threat of disease or insect infestation, or the after-  
14 math of a severe weather event poses a significant  
15 threat to an ecosystem component, or forest or  
16 rangeland resource, on the Federal land or adjacent  
17 private land;

18 (5) Federal land not described in paragraph  
19 (1), (2), (3), or (4) that contains threatened and en-  
20 dangered species habitat, if—

21 (A)(i) natural fire regimes on that land are  
22 identified as being important for, or wildfire is  
23 identified as a threat to, an endangered species,  
24 a threatened species, or habitat of an endan-  
25 gered species or threatened species in—

1 (I) a species recovery plan prepared  
2 under section 4 of the Endangered Species  
3 Act of 1973 (16 U.S.C. 1533); or

4 (II) a notice published in the Federal  
5 Register determining a species to be an en-  
6 dangered species or a threatened species or  
7 designating critical habitat;

8 (ii) the threatened or endangered species  
9 habitat contains land in condition class 2 or  
10 condition class 3;

11 (B) the project will provide enhanced pro-  
12 tection from catastrophic wildfire for the endan-  
13 gered species, threatened species, or habitat of  
14 the endangered species or threatened species;  
15 and

16 (C) the Secretary complies with any appli-  
17 cable guidelines specified in any recovery plan  
18 described in subparagraph (A).

19 (b) RELATION TO AGENCY PLANS.—An authorized  
20 hazardous fuels reduction project shall be prepared and  
21 conducted in a manner consistent with the resource man-  
22 agement plan applicable to the Federal land covered by  
23 the project.

1 (c) EXCLUSION OF CERTAIN FEDERAL LAND.—The  
2 Secretary may not prepare or conduct an authorized haz-  
3 ardous fuels reduction project that would occur on—

4 (1) a component of the National Wilderness  
5 Preservation System;

6 (2) Federal land on which, by Act of Congress  
7 or Presidential proclamation, the removal of vegeta-  
8 tion is prohibited or restricted; or

9 (3) a Wilderness Study Area.

10 **SEC. 104. PRIORITIZATION FOR COMMUNITIES AND WATER-**  
11 **SHEDS.**

12 As provided for in the Implementation Plan, the Sec-  
13 retary shall give priority to authorized hazardous fuel re-  
14 duction projects that provide for the protection of commu-  
15 nities and watersheds.

16 **SEC. 105. ENVIRONMENTAL ANALYSIS.**

17 (a) HAZARDOUS FUELS REDUCTION PROJECTS.—

18 (1) IN GENERAL.—Except as otherwise pro-  
19 vided in this title, the Secretary shall prepare and  
20 conduct authorized hazardous fuels reduction  
21 projects in accordance with—

22 (A) the National Environmental Policy Act  
23 of 1969 (42 U.S.C. 4331 et seq.); and

24 (B) other applicable laws.

1           (2) ENVIRONMENTAL ASSESSMENT OR IMPACT  
2 STATEMENT.—The Secretary shall prepare an envi-  
3 ronmental assessment or an environmental impact  
4 statement (pursuant to section 102(2) of the Na-  
5 tional Environmental Policy Act of 1969 (42 U.S.C.  
6 4332(2))) for each authorized hazardous fuels reduc-  
7 tion project.

8           (b) ALTERNATIVES.—The Secretary is not required  
9 to study, develop, or describe any alternative to the pro-  
10 posed agency action in the environmental assessment or  
11 environmental impact statement prepared in accordance  
12 with subsection (a)(2).

13           (c) PUBLIC NOTICE AND MEETING.—

14           (1) PUBLIC NOTICE.—The Secretary shall pro-  
15 vide notice of each authorized hazardous fuels reduc-  
16 tion project in accordance with applicable regula-  
17 tions and administrative guidelines, including a clear  
18 reference to applicable appeals requirements.

19           (2) PUBLIC MEETING.—During the preparation  
20 stage of each authorized hazardous fuels reduction  
21 project, the Secretary shall—

22                   (A) conduct a public meeting at an appro-  
23 priate location proximate to the administrative  
24 unit of the Federal land on which the author-

1            ized hazardous fuels reduction project will be  
2            conducted; and

3            (B) provide advance notice of the date,  
4            time, and location of the meeting.

5            (d) PUBLIC COLLABORATION.—In order to encourage  
6 meaningful public participation in the identification and  
7 development of authorized hazardous fuels reduction  
8 projects, the Secretary shall facilitate collaboration among  
9 State and local governments and Indian tribes, and par-  
10 ticipation of interested persons, during the preparation of  
11 each authorized fuels reduction project in a manner con-  
12 sistent with the Implementation Plan.

13            (e) ENVIRONMENTAL ANALYSIS AND PUBLIC COM-  
14 MENT.—In accordance with section 102(2) of the National  
15 Environmental Policy Act of 1969 (42 U.S.C. 4332(2))  
16 and applicable regulations and administrative guidelines,  
17 the Secretary shall provide an opportunity for public input  
18 during the preparation of any environmental assessment  
19 or environmental impact statement for proposed agency  
20 action for an authorized hazardous fuels reduction project.

21            (f) DECISION DOCUMENT.—The Secretary shall sign  
22 a decision document for each authorized hazardous fuels  
23 reduction project and provide notice of the decision docu-  
24 ment.

1 (g) PROJECT MONITORING.—In accordance with the  
2 Implementation Plan, the Secretary shall monitor the im-  
3 plementation of authorized hazardous fuels reduction  
4 projects.

5 **SEC. 106. SPECIAL FOREST SERVICE ADMINISTRATIVE RE-**  
6 **VIEW PROCESS.**

7 (a) DEVELOPMENT OF ADMINISTRATIVE PROCESS.—  
8 Not later than 90 days after the date of the enactment  
9 of this Act, the Secretary of Agriculture shall promulgate  
10 final regulations to establish an administrative process  
11 that will serve as the sole means by which a person de-  
12 scribed in subsection (b) can seek administrative redress  
13 regarding an authorized hazardous fuels reduction project.

14 (b) ELIGIBLE PERSONS.—

15 (1) IN GENERAL.—To be eligible to participate  
16 in the administrative process established under sub-  
17 section (a) with respect to an authorized hazardous  
18 fuels reduction project, a person shall submit spe-  
19 cific and substantive written comments during the  
20 preparation stage of the authorized hazardous fuels  
21 reduction project.

22 (2) NOTICE AND COMMENT.—The Secretary of  
23 Agriculture shall ensure that, during the preparation  
24 stage of each authorized hazardous fuels reduction  
25 project, notice and comment is provided in a manner

1 sufficient to permit interested persons a reasonable  
2 opportunity to comply with this subsection.

3 (c) RELATION TO APPEALS REFORM ACT.—Section  
4 322 of the Department of the Interior and Related Agen-  
5 cies Appropriations Act, 1993 (Public Law 102–381; 16  
6 U.S.C. 1612 note), does not apply to an authorized haz-  
7 ardous fuels reduction project.

8 **SEC. 107. SPECIAL REQUIREMENTS REGARDING JUDICIAL**  
9 **REVIEW OF AUTHORIZED HAZARDOUS FUELS**  
10 **REDUCTION PROJECTS.**

11 (a) FILING DEADLINE.—

12 (1) TIME LIMIT ESTABLISHED FOR FILING.—

13 (A) IN GENERAL.—Notwithstanding any  
14 other provision of law, to be timely, an action  
15 in a court of the United States challenging an  
16 authorized hazardous fuels reduction project  
17 shall be filed in the court before the end of the  
18 15-day period beginning on the date on which  
19 the Secretary publishes notice of the final agen-  
20 cy action regarding the authorized hazardous  
21 fuels reduction project.

22 (B) APPLICABILITY.—The time limitation  
23 under subparagraph (A) supersedes any re-  
24 quirement regarding notice of intent to file a  
25 lawsuit, or filing deadline, otherwise applicable

1 to an action challenging an authorized haz-  
2 arduous fuels reduction project under any provi-  
3 sion of law.

4 (2) WAIVER PROHIBITED.—The Secretary may  
5 not agree to, and a court of the United States may  
6 not grant, a waiver of the requirements of this sub-  
7 section.

8 (b) DURATION OF PRELIMINARY INJUNCTION.—

9 (1) DURATION; EXTENSION.—

10 (A) DURATION.—Any preliminary injunc-  
11 tion, or injunction pending appeal, granted by  
12 a court of the United States regarding an au-  
13 thorized hazardous fuels reduction project shall  
14 be limited to 45 days.

15 (B) EXTENSION.—A court may renew the  
16 preliminary injunction, taking into consider-  
17 ation the goal expressed in subsection (c) for  
18 the expeditious resolution of cases regarding  
19 authorized hazardous fuels reduction projects.

20 (2) SUBMISSION OF INFORMATION.—As part of  
21 a request to renew a preliminary injunction, or in-  
22 junction pending appeal, granted regarding an au-  
23 thorized hazardous fuels reduction project, the par-  
24 ties involved shall present to the court a description  
25 of any changes that may have occurred during the

1 period of the injunction to the forest or rangeland  
2 conditions that the authorized hazardous fuels re-  
3 duction project is intended to address.

4 (3) CONGRESSIONAL NOTIFICATION.—In the  
5 event of the renewal of a preliminary injunction, or  
6 injunction pending appeal, regarding an authorized  
7 hazardous fuels reduction project, the Secretary  
8 shall submit notice of the renewal to—

9 (A) the Committee on Resources and the  
10 Committee on Agriculture of the House of Rep-  
11 resentatives; and

12 (B) the Committee on Energy and Natural  
13 Resources and the Committee on Agriculture,  
14 Nutrition, and Forestry of the Senate.

15 (c) EXPEDITIOUS COMPLETION OF JUDICIAL RE-  
16 VIEW.—Congress intends and encourages any court in  
17 which is filed an action or appeal of an action challenging  
18 a lawsuit or appeal of a lawsuit challenging an authorized  
19 hazardous fuels reduction project to expedite, to the max-  
20 imum extent practicable, the proceedings in the lawsuit  
21 or appeal with the goal of rendering, not later than 100  
22 days after the date on which the lawsuit or appeal is  
23 filed—

24 (1) a final determination on jurisdiction; and

1           (2) if jurisdiction exists, a final determination  
2           on the merits.

3 **SEC. 108. STANDARD FOR INJUNCTIVE RELIEF FOR AGEN-**  
4                           **CY ACTION TO RESTORE FIRE-ADAPTED FOR-**  
5                           **EST OR RANGELAND ECOSYSTEMS.**

6           If a civil action brought against the Secretary under  
7 section 703 of title 5, United States Code, involves an  
8 agency action on Federal land on which the Secretary  
9 found that the agency action is necessary to restore a fire-  
10 adapted forest or rangeland ecosystem (including an au-  
11 thorized hazardous fuels reduction project), the court re-  
12 viewing the agency action, in considering a request for a  
13 prohibitory or mandatory injunction against the agency  
14 action, shall—

15           (1) balance the impact to the ecosystem and  
16           forest resources likely affected by the project of the  
17           short- and long-term effects of undertaking the  
18           agency action against the short- and long-term ef-  
19           fects of not undertaking the agency action; and

20           (2) give weight to a finding by the Secretary in  
21           the administrative record of the agency action con-  
22           cerning the short- and long-term effects of under-  
23           taking the agency action and of not undertaking the  
24           agency action, unless the court finds that the finding  
25           was arbitrary and capricious.

1 **SEC. 109. LOCAL PREFERENCE CONTRACTING.**

2 Notwithstanding any Federal procurement or con-  
3 tracting law, to provide employment and training and op-  
4 portunities to individuals in rural communities, the Secre-  
5 taries may award contracts, including contracts for moni-  
6 toring activities, to entities that operate in a rural area  
7 and agree to hire or train a significant percentage of local  
8 individuals to complete the contracts, such as—

9 (1) local private, nonprofit, and cooperative en-  
10 tities;

11 (2) Youth Conservation Corps crews and re-  
12 lated State, local, and nonprofit youth groups; and

13 (3) small businesses and microbusinesses.

14 **SEC. 110. EFFECT OF TITLE.**

15 (a) **RELATION TO OTHER AUTHORITY.**—Nothing in  
16 this title affects, or otherwise biases, the use by the Sec-  
17 retary of other statutory or administrative authority to  
18 prepare or conduct a hazardous fuels reduction project on  
19 Federal land (including Federal land identified in section  
20 102(d)) that is not prepared or conducted using the pro-  
21 cess authorized by section 104.

22 (b) **RELATION TO LEGAL ACTION.**—Nothing in this  
23 title prejudices or otherwise affects the consideration or  
24 disposition of any legal action concerning the Roadless  
25 Area Conservation Rule contained in part 294 of title 36,  
26 Code of Federal Regulations, and amended in the final

1 rule and record of decision published in the Federal Reg-  
2 ister on January 12, 2001 (66 Fed. Reg. 3244).

## 3 **TITLE II—BIOMASS**

### 4 **SEC. 201. FINDINGS.**

5 Congress finds that—

6 (1)(A) the byproducts of vegetation manage-  
7 ment treatment (such as trees, brush, thinnings,  
8 chips, slash, and other hazardous fuels) removed  
9 from forest and rangeland represent an abundant  
10 supply of—

11 (i) biomass for biomass-to-energy facilities;

12 (ii) raw material for business; and

13 (iii) public lands (as defined in section 103  
14 of the Federal Land Policy and Management  
15 Act of 1976 (43 U.S.C. 1702)); and

16 (B) there are currently few markets for the ex-  
17 traordinary volumes of by-products being generated  
18 as a result of the necessary large-scale preventive  
19 treatment activities; and

20 (2) the United States should—

21 (A) promote economic and entrepreneurial  
22 opportunities in using by-products removed  
23 through vegetation management treatment ac-  
24 tivities relating to hazardous fuels reduction,  
25 disease, and insect infestation; and

1           (B) develop and expand markets for tradi-  
2           tionally underused wood and biomass as an out-  
3           let for by-products of vegetation management  
4           treatment activities.

5 **SEC. 202. DEFINITIONS.**

6       In this title:

7           (1) **BIOMASS.**—The term “biomass” means  
8           trees and woody plants (including limbs, tops, nee-  
9           dles, other woody parts, and wood waste) and by-  
10          products of vegetation management treatment (such  
11          as wood, brush, thinnings, chips, and slash) that are  
12          removed—

13               (A) to reduce hazardous fuels; or

14               (B) to reduce the risk of or to contain dis-  
15          ease or insect infestation.

16          (2) **PERSON.**—The term “person” includes—

17               (A) an individual;

18               (B) a community (as determined by the  
19          Secretary);

20               (C) an Indian tribe;

21               (D) a small business, microbusiness, or a  
22          corporation that is incorporated in the United  
23          States; and

24               (E) a nonprofit organization.

1           (3) PREFERRED COMMUNITY.—The term “pre-  
2           ferred community” means—

3                   (A) any town, township, municipality, or  
4                   other similar unit of local government (as deter-  
5                   mined by the Secretary) that—

6                           (i) has a population of not more than  
7                           50,000 individuals; and

8                           (ii) the Secretary, in the sole discre-  
9                           tion of the Secretary, determines contains  
10                          or is located near, or has a municipal wa-  
11                          tershed that contains or is located near,  
12                          land that—

13                           (I) is at significant risk of cata-  
14                           strophic wildfire, disease, or insect in-  
15                           festation; or

16                           (II) suffers from disease or insect  
17                           infestation; or

18                   (B) any county that—

19                           (i) is not wholly contained within a  
20                           metropolitan statistical area; and

21                           (ii) the Secretary, in the sole discre-  
22                           tion of the Secretary, determines contains  
23                           or is located near, or has a water supply  
24                           system that contains or is located near,  
25                           land—

1 (I) the condition of which is at  
 2 significant risk of catastrophic wild-  
 3 fire, disease, or insect infestation; or

4 (II) that suffers from disease or  
 5 insect infestation.

6 (4) SECRETARY.—The term “Secretary”  
 7 means—

8 (A) the Secretary of Agriculture, with re-  
 9 spect to National Forest System land; and

10 (B) the Secretary of the Interior, with re-  
 11 spect to Federal land under the jurisdiction of  
 12 the Secretary of the Interior (including land  
 13 held in trust for the benefit of an Indian tribe).

14 **SEC. 203. GRANTS TO IMPROVE THE COMMERCIAL VALUE**  
 15 **OF FOREST BIOMASS FOR ELECTRIC ENERGY,**  
 16 **USEFUL HEAT, TRANSPORTATION FUELS, PE-**  
 17 **TROLEUM-BASED PRODUCT SUBSTITUTES,**  
 18 **AND FOR OTHER COMMERCIAL PURPOSES.**

19 (a) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

20 (1) IN GENERAL.—The Secretary may make  
 21 grants to any person that owns or operates a facility  
 22 that uses biomass as a raw material to produce elec-  
 23 tric energy, sensible heat, transportation fuels, or  
 24 substitutes for petroleum-based products or for other

1 commercial purposes to offset the costs incurred to  
2 purchase biomass for use by the facility.

3 (2) GRANT AMOUNTS.—A grant under this sub-  
4 section may not exceed \$20 per green ton of biomass  
5 delivered.

6 (3) MONITORING OF GRANT RECIPIENT ACTIVI-  
7 TIES.—

8 (A) IN GENERAL.—As a condition of a  
9 grant under this subsection, the grant recipient  
10 shall keep such records as the Secretary may  
11 require to fully and correctly disclose the use of  
12 the grant funds and all transactions involved in  
13 the purchase of biomass.

14 (B) ACCESS.—On notice by a representa-  
15 tive of the Secretary, the grant recipient shall  
16 afford the representative—

17 (i) reasonable access to the facility  
18 that purchases or uses biomass; and

19 (ii) an opportunity to examine the in-  
20 ventory and records of the facility.

21 (b) VALUE-ADDED GRANT PROGRAM.—

22 (1) IN GENERAL.—The Secretary—

23 (A) may make grants to persons to offset  
24 the cost of projects to improve the use of, or  
25 add value to, biomass; and

1 (B) in making a grant under subparagraph  
2 (A), shall give preference to persons in pre-  
3 ferred communities.

4 (2) SELECTION.—The Secretary shall select a  
5 grant recipient under paragraph (1)(A) after giving  
6 consideration to—

7 (A) the anticipated public benefits of the  
8 project;

9 (B) opportunities for the creation or ex-  
10 pansion of small businesses and micro-  
11 businesses resulting from the project; and

12 (C) the potential for new job creation as a  
13 result of the project.

14 (3) GRANT AMOUNT.—A grant under this sub-  
15 section shall not exceed \$100,000.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
17 authorized to be appropriated to carry out this section  
18 \$25,000,000 for each of fiscal years 2004 through 2008.

19 **SEC. 204. REPORTING REQUIREMENT.**

20 (a) REPORT REQUIRED.—Not later than October 1,  
21 2010, the Secretary of Agriculture, in consultation with  
22 the Secretary of the Interior, shall submit to the Com-  
23 mittee on Resources and the Committee on Agriculture of  
24 the House of Representatives and the Committee on En-  
25 ergy and Natural Resources and the Committee on Agri-

1 culture, Nutrition, and Forestry of the Senate a report  
2 describing the results of the grant programs authorized  
3 by section 203.

4 (b) CONTENTS OF REPORT.—The report shall in-  
5 clude—

6 (1) an identification of the source, size, type,  
7 and the end-use of biomass by persons that receive  
8 grants under section 203;

9 (2) a statement of the haul costs incurred and  
10 the distance between the land from which the bio-  
11 mass was removed and the facilities that used the  
12 biomass; and

13 (3) a description of the economic impacts, par-  
14 ticularly new job creation, resulting from the grants  
15 to and operation of the eligible operations.

16 **TITLE III—WATERSHED**  
17 **FORESTRY ASSISTANCE**

18 **SEC. 301. FINDINGS AND PURPOSES.**

19 (a) FINDINGS.—Congress finds that—

20 (1) there has been a dramatic shift in public at-  
21 titudes and perceptions about forest management,  
22 particularly in the understanding and practice of  
23 sustainable forest management;

1           (2) it is commonly recognized that the proper  
2           stewardship of forest land is essential to sustaining  
3           and restoring the health of watersheds;

4           (3) forests can provide essential ecological serv-  
5           ices in filtering pollutants, buffering important rivers  
6           and estuaries, and minimizing flooding, which makes  
7           forest restoration worthy of special focus; and

8           (4) strengthened education, technical assist-  
9           ance, and financial assistance for nonindustrial pri-  
10          vate forest landowners and communities, relating to  
11          the protection of watershed health, is needed to real-  
12          ize the expectations of the general public.

13          (b) PURPOSES.—The purposes of this title are—

14           (1) to improve landowner and public under-  
15           standing of the connection between forest manage-  
16           ment and watershed health;

17           (2) to encourage landowners to maintain tree  
18           cover on property and to use tree plantings and veg-  
19           etative treatments as creative solutions to watershed  
20           problems associated with varying land uses;

21           (3) to enhance and complement forest manage-  
22           ment and buffer use for watersheds, with an empha-  
23           sis on urban community watersheds;

1           (4) to establish new partnerships and collabo-  
 2           rative watershed approaches to forest management,  
 3           stewardship, and conservation;

4           (5) to provide technical and financial assistance  
 5           to States to deliver a coordinated program that en-  
 6           hances State forestry best-management practices  
 7           programs, and conserves and improves forested land  
 8           and potentially forested land, through technical, fi-  
 9           nancial, and educational assistance to qualifying in-  
 10          dividuals and entities; and

11          (6) to maximize the proper management and  
 12          conservation of wetland forests and to assist in the  
 13          necessary restoration of those forests.

14 **SEC. 302. WATERSHED FORESTRY ASSISTANCE PROGRAM.**

15          The Cooperative Forestry Assistance Act of 1978 is  
 16          amended by inserting after section 5 (16 U.S.C. 2103a)  
 17          the following:

18 **“SEC. 6. WATERSHED FORESTRY ASSISTANCE PROGRAM.**

19          “(a) DEFINITIONS.—In this section:

20                 “(1) INDIAN TRIBE.—The term ‘Indian tribe’  
 21                 has the meaning given the term in section 4 of the  
 22                 Indian Self-Determination and Education Assistance  
 23                 Act (25 U.S.C. 450b).

24                 “(2) NONINDUSTRIAL PRIVATE FOREST  
 25                 LAND.—The term ‘nonindustrial private forest land’

1 means rural land, as determined by the Secretary,  
2 that—

3 “(A) has existing tree cover or that is suit-  
4 able for growing trees; and

5 “(B) is owned by any nonindustrial private  
6 individual, group, association, corporation, In-  
7 dian tribe, or other private legal entity, that has  
8 definitive decisionmaking authority over the  
9 land.

10 “(b) GENERAL AUTHORITY AND PURPOSE.—The  
11 Secretary, acting through the Chief of the Forest Service,  
12 may provide technical, financial, and related assistance to  
13 State foresters and equivalent State officials for the pur-  
14 pose of expanding State forest stewardship capacities and  
15 activities through State forestry best-management prac-  
16 tices and other means at the State level to address water-  
17 shed issues on nonindustrial private forest land.

18 “(c) TECHNICAL ASSISTANCE TO ENHANCE WATER  
19 QUALITY.—

20 “(1) IN GENERAL.—The Secretary, in coopera-  
21 tion with State foresters or equivalent State officials,  
22 shall engage interested members of the public, in-  
23 cluding nonprofit organizations and local watershed  
24 councils, to develop a program of technical assist-

1       ance to enhance water quality described in para-  
2       graph (2).

3               “(2) PURPOSE OF PROGRAM.—The program  
4       under this subsection shall be designed—

5                       “(A) to build and strengthen watershed  
6       partnerships that focus on forested landscapes  
7       at the State, regional, and local levels;

8                       “(B) to provide State forestry best-man-  
9       agement practices and water quality technical  
10      assistance directly to owners of nonindustrial  
11      private forest land;

12                      “(C) to provide technical guidance to land  
13      managers and policymakers for water quality  
14      protection through forest management;

15                      “(D) to complement State and local efforts  
16      to enhance water quality and provide enhanced  
17      opportunities for consultation and cooperation  
18      among Federal and State agencies charged with  
19      responsibility for water and watershed manage-  
20      ment; and

21                      “(E) to provide enhanced forest resource  
22      data and support for improved implementation  
23      and monitoring of State forestry best-manage-  
24      ment practices.

1           “(3) IMPLEMENTATION.—The program of tech-  
2           nical assistance shall be implemented by State for-  
3           esters or equivalent State officials.

4           “(d) WATERSHED FORESTRY COST-SHARE PRO-  
5           GRAM.—

6           “(1) IN GENERAL.—The Secretary shall estab-  
7           lish a watershed forestry cost-share program—

8                   “(A) which shall be—

9                           “(i) administered by the Forest Serv-  
10                          ice; and

11                           “(ii) implemented by State foresters  
12                          or equivalent State officials; and

13                   “(B) under which funds or other support  
14                   provided shall be made available for State for-  
15                   estry best-management practices programs and  
16                   watershed forestry projects.

17           “(2) WATERSHED FORESTRY PROJECTS.—The  
18           State forester or equivalent State official of a State,  
19           in coordination with the State Forest Stewardship  
20           Coordinating Committee established under section  
21           19(b) for that State (or an equivalent committee),  
22           shall make awards to communities, nonprofit groups,  
23           and owners of nonindustrial private forest land  
24           under the program for watershed forestry projects  
25           described in paragraph (3).

1           “(3) PROJECT ELEMENTS AND OBJECTIVES.—A  
2 watershed forestry project shall accomplish critical  
3 forest stewardship, watershed protection, and res-  
4 toration needs within a State by demonstrating the  
5 value of trees and forests to watershed health and  
6 condition through—

7           “(A) the use of trees as solutions to water  
8 quality problems in urban and rural areas;

9           “(B) community-based planning, involve-  
10 ment, and action through State, local and non-  
11 profit partnerships;

12           “(C) application of and dissemination of  
13 monitoring information on forestry best-man-  
14 agement practices relating to watershed for-  
15 estry;

16           “(D) watershed-scale forest management  
17 activities and conservation planning; and

18           “(E)(i) the restoration of wetland (as de-  
19 fined by the States) and stream-side forests;  
20 and

21           “(ii) the establishment of riparian vegeta-  
22 tive buffers.

23           “(4) COST-SHARING.—

24           “(A) FEDERAL SHARE.—

1                   “(i) FUNDS UNDER THIS SUB-  
2                   SECTION.—Funds provided under this sub-  
3                   section for a watershed forestry project  
4                   may not exceed 75 percent of the cost of  
5                   the project.

6                   “(ii) OTHER FEDERAL FUNDS.—The  
7                   percentage of the cost of a project de-  
8                   scribed in clause (i) that is not covered by  
9                   funds made available under this subsection  
10                  may be paid using other Federal funding  
11                  sources, except that the total Federal share  
12                  of the costs of the project may not exceed  
13                  90 percent.

14                  “(B) FORM.—The non-Federal share of  
15                  the costs of a project may be provided in the  
16                  form of cash, services, or other in-kind con-  
17                  tributions.

18                  “(5) PRIORITIZATION.—The State Forest Stew-  
19                  ardship Coordinating Committee for a State (or an  
20                  equivalent committee) shall prioritize watersheds in  
21                  that State to target watershed forestry projects  
22                  funded under this subsection.

23                  “(6) WATERSHED FORESTER.—Financial and  
24                  technical assistance shall be made available to the

1 State Forester or equivalent State official to create  
2 a State watershed forester to—

3 “(A) lead statewide programs; and

4 “(B) coordinate small watershed-level  
5 projects.

6 “(e) DISTRIBUTION.—

7 “(1) IN GENERAL.—Of the funds made avail-  
8 able for a fiscal year under subsection (g), the Sec-  
9 retary shall use—

10 “(A) at least 75 percent of the funds to  
11 carry out the cost-share program under sub-  
12 section (d); and

13 “(B) the remainder of the funds to deliver  
14 technical assistance, education, and planning, at  
15 the local level, through the State Forester or  
16 equivalent State official.

17 “(2) SPECIAL CONSIDERATIONS.—Distribution  
18 of funds by the Secretary among States under para-  
19 graph (1) shall be made only after giving appro-  
20 priate consideration to—

21 “(A) the acres of nonindustrial private for-  
22 est land and highly erodible land in each State;

23 “(B) the efforts of each State to conserve  
24 forests;

1           “(C) the acreage of forests in each State  
2           that has been lost or degraded, or that may be  
3           used to facilitate the restoration of watersheds;  
4           and

5           “(D) the number of owners of nonindus-  
6           trial private forest land in each State.

7           “(f) WILLING OWNERS.—

8           “(1) IN GENERAL.—Participation of an owner  
9           of nonindustrial private forest land in the watershed  
10          forestry assistance program under this section is vol-  
11          untary.

12          “(2) WRITTEN CONSENT.—The watershed for-  
13          estry assistance program shall not be carried out on  
14          nonindustrial private forest land without the written  
15          consent of the owner of the nonindustrial private  
16          forest land.

17          “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
18          is authorized to be appropriated to carry out this section  
19          \$15,000,000 for each of fiscal years 2004 through 2008.”.

20                   **TITLE IV—RESEARCH**  
21           **Subtitle A—General Provisions**

22   **SEC. 401. FINDINGS AND PURPOSES.**

23          (a) FINDINGS.—Congress finds that—

24                  (1) high levels of tree mortality resulting from  
25          insect infestation result in—

- 1 (A) increased fire risk;
- 2 (B) loss of threatened and endangered spe-
- 3 cies;
- 4 (C) loss of species diversity;
- 5 (D) degraded watershed conditions;
- 6 (E) increased potential for damage from
- 7 other agents of disturbance, including exotic,
- 8 invasive species; and
- 9 (F) decreased timber values;
- 10 (2)(A) previous silvicultural research, while use-
- 11 ful and informative, have been limited in scale and
- 12 scope of application; and
- 13 (B) there have not been sufficient resources
- 14 available to adequately test a full array of individual
- 15 and combined applied silvicultural research; and
- 16 (3) only through the full funding, development,
- 17 and assessment of potential applied silvicultural re-
- 18 search over specific time frames across an array of
- 19 environmental and climatic conditions can the most
- 20 innovative and cost effective management applica-
- 21 tions be determined that will help reduce the suscep-
- 22 tibility of forest ecosystems to attack by forest pests.
- 23 (b) PURPOSES.—The purposes of this title are—

1           (1) to require the Secretary to develop an accel-  
2           erated basic and applied research program to com-  
3           bat infestations by insects and disease;

4           (2) to enlist the assistance of colleges and uni-  
5           versities (including forestry schools, land grant col-  
6           leges and universities, and 1890 Institutions), State  
7           agencies, and private landowners to carry out the  
8           program; and

9           (3) to carry out applied silvicultural research.

10 **SEC. 402. DEFINITIONS.**

11       In this title:

12           (1) APPLIED SILVICULTURAL RESEARCH.—

13               (A) IN GENERAL.—The term “applied sil-  
14               vicultural research” means any vegetative or  
15               other treatment carried out for a purpose de-  
16               scribed in section 412.

17               (B) INCLUSIONS.—The term “applied sil-  
18               vicultural research” includes timber harvesting,  
19               thinning, prescribed burning, use of chemical  
20               treatments, pruning, and any combination of  
21               those activities.

22           (2) 1890 INSTITUTION.—

23               (A) IN GENERAL.—The term “1890 Insti-  
24               tution” means a college or university that is eli-

1           gible to receive funds under the Act of August  
2           30, 1890 (7 U.S.C. 321 et seq.).

3           (B) INCLUSION.—The term “1890 Institu-  
4           tion” includes Tuskegee University.

5           (3) ELIGIBLE INSTITUTION.—The term “eligi-  
6           ble institution” means—

7                   (A) an 1890 institution;

8                   (B) a college or university other than an  
9           1890 institution that is maintained, in whole or  
10          in part, using funds made available under—

11                   (i) the Act of July 2, 1862 (7 U.S.C.  
12           301 et seq.); and

13                   (ii) the Act of August 30, 1890 (7  
14           U.S.C. 321 et seq.); and

15                   (C) a forestry school that is authorized to  
16           receive funding under the McIntire-Stennis Co-  
17           operative Forestry Research Act (16 U.S.C.  
18           582a et seq.).

19           (4) SECRETARY.—The term “Secretary”  
20          means—

21                   (A) the Secretary of Agriculture, acting  
22           through the Forest Service, with respect to Na-  
23           tional Forest System land; and

24                   (B) the Secretary of the Interior, acting  
25           through appropriate offices of the United States

1 Geological Survey, with respect to federally  
2 owned land administered by the Secretary of  
3 the Interior.

4 **SEC. 403. COOPERATION AND ASSISTANCE.**

5 The Secretary shall—

6 (1) establish and carry out the programs under  
7 this title in cooperation with—

8 (A) scientists from eligible institutions;

9 (B) State agencies; and

10 (C) private and industrial landowners; and

11 (2) designate eligible institutions to assist in  
12 carrying out the programs.

13 **SEC. 404. RELATION TO OTHER LAWS.**

14 The authority provided to each Secretary under this  
15 title is supplemental to, and not in lieu of, any authority  
16 provided to the Secretaries under any other law.

17 **Subtitle B—Accelerated Informa-**  
18 **tion Gathering and Applied Sil-**  
19 **vicultural Research**

20 **SEC. 411. ACCELERATED INFORMATION GATHERING.**

21 The Secretary, acting through the Forest Service and  
22 United States Geological Survey, as appropriate, shall es-  
23 tablish an accelerated program—

24 (1) to prepare, conduct, and promote com-  
25 prehensive and systematic information gathering on

1 the response to insect and disease infestation and  
2 the aftermath of severe weather events, including an  
3 evaluation of—

4 (A) prevention and control methods;

5 (B) effects on forest ecosystems;

6 (C) forest ecosystem restoration;

7 (D) use options regarding infested and  
8 damaged trees; and

9 (E) models to predict the occurrence, dis-  
10 tribution, and impact of outbreaks of insects  
11 and disease and susceptibility to other dam-  
12 aging agents;

13 (2) to assist land managers in the development  
14 of treatments and strategies to improve forest health  
15 and reduce the susceptibility of forest ecosystems to  
16 severe infestations of insects and disease on Federal  
17 land and State and private land; and

18 (3) to disseminate the results of the informa-  
19 tion gathering, treatments, and strategies.

20 **SEC. 412. APPLIED SILVICULTURAL RESEARCH.**

21 (a) ASSESSMENT EFFORTS.—For information gath-  
22 ering and research purposes, the Secretary may conduct  
23 applied silvicultural research on Federal land, on such a  
24 scale as is appropriate with respect to the damaging agent,  
25 that the Secretary determines is—

1 (1) at risk of infestation by, or is infested with,  
2 insects or disease;

3 (2) at risk of catastrophic fire; or

4 (3) damaged as a result of a severe weather  
5 event.

6 (b) LIMITATIONS.—

7 (1) EXCLUSION OF CERTAIN AREAS.—Sub-  
8 section (a) does not apply to—

9 (A) a component of the National Wilder-  
10 ness Preservation System;

11 (B) any Federal land on which, by Act of  
12 Congress or Presidential proclamation, the re-  
13 moval of vegetation is restricted or prohibited;  
14 or

15 (C) Wilderness Study Area.

16 (2) CERTAIN TREATMENT PROHIBITED.—Noth-  
17 ing in subsection (a) authorizes the application of in-  
18 secticides in municipal watersheds or associated ri-  
19 parian areas.

20 (3) PEER REVIEW.—

21 (A) IN GENERAL.—Before being carried  
22 out, each applied silvicultural research project  
23 under this title shall be peer reviewed by sci-  
24 entific experts selected by the Secretary, which  
25 shall include non-Federal experts.

1 (B) EXISTING PEER REVIEW PROC-  
2 ESSES.—The Secretary may use existing peer  
3 review processes to the extent the processes  
4 comply with subparagraph (A).

5 (4) COMPLIANCE WITH FOREST AND RESOURCE  
6 MANAGEMENT PLANS.—Each applied silvicultural re-  
7 search project and related silvicultural treatment  
8 carried out under this title shall comply with—

9 (A) the applicable forest or resource man-  
10 agement plan in place for land to be assessed  
11 or treated; and

12 (B) regulations promulgated under section  
13 14 of the National Forest Management Act of  
14 1976 (16 U.S.C. 472a).

15 (c) PUBLIC NOTICE AND COMMENT.—

16 (1) PUBLIC NOTICE.—The Secretary shall pro-  
17 vide notice of each applied silvicultural research  
18 project proposed to be carried out under this section  
19 in accordance with applicable regulations and admin-  
20 istrative guidelines.

21 (2) PUBLIC COMMENT.—During the planning  
22 stage of each applied silvicultural research project  
23 proposed to be carried out under this section, the  
24 Secretary shall provide an opportunity for public  
25 input.

1 (d) CATEGORICAL EXCLUSION.—

2 (1) IN GENERAL.—An applied silvicultural re-  
3 search project or silvicultural treatment carried out  
4 under this section shall not be subject to the Na-  
5 tional Environmental Policy Act of 1969 (42 U.S.C.  
6 4321 et seq.).

7 (2) NO ADDITIONAL FINDINGS REQUIRED.—In  
8 accordance with paragraph (1), the Secretary shall  
9 not be required to make any findings as to whether  
10 the an applied silvicultural research project, either  
11 individually or cumulatively, has a significant effect  
12 on the environment.

13 (e) FOREST HEALTH RESTORATION OBJECTIVES.—

14 (1) IN GENERAL.—Each silvicultural research  
15 project carried out under this title shall establish  
16 specific, measurable objectives for restoring forest  
17 health that are directed toward restoring ecological  
18 conditions within the historical range of natural var-  
19 iability.

20 (2) CATEGORIES OF OBJECTIVES.—Forest  
21 health restoration objectives of a silvicultural re-  
22 search project should include, as appropriate—

23 (A) the reduction of hazardous fuel loads;

24 (B) the restoration of ecosystem structure,  
25 function, and composition;

1 (C) the reintroduction of fire as a natural  
2 process;

3 (D) the protection and restoration of at-  
4 risk species, such as—

5 (i) species that are listed as threat-  
6 ened or endangered under the Endangered  
7 Species Act of 1973 (16 U.S.C. 1531 et.  
8 seq.);

9 (ii) candidate, State-listed species;  
10 and

11 (iii) special concern species identified  
12 by the Secretary;

13 (E) detection and control of ecologically-  
14 harmful nonnative species; and

15 (F) prevention of severe native insect or  
16 disease epidemics.

17 (3) LANDSCAPE CONTEXT.—To the maximum  
18 extent practicable, forest health restoration objec-  
19 tives should be determined in a landscape context.

20 **SEC. 413. AUTHORIZATION OF APPROPRIATIONS.**

21 There is authorized to be appropriated to carry out  
22 this subtitle \$25,000,000 for each of fiscal years 2004  
23 through 2008.

1           **Subtitle C—Forest Stands**  
2           **Inventory and Monitoring**

3   **SEC. 421. FOREST LAND INVENTORY AND MONITORING**  
4                   **PROGRAM TO IMPROVE DETECTION OF AND**  
5                   **RESPONSE TO ENVIRONMENTAL THREATS.**

6           (a) **IN GENERAL.**—The Secretary of Agriculture (on  
7 land under the jurisdiction of the Secretary of Agri-  
8 culture) and the Secretary of Interior (on land under the  
9 jurisdiction of the Secretary of the Interior) (referred to  
10 in this section as the “Secretaries”) shall carry out a com-  
11 prehensive program to inventory, monitor, characterize,  
12 assess, and identify forest land (with emphasis on hard-  
13 wood forest land) and potential forest land—

14                   (1) on Federal land; and

15                   (2) on private forest land, with the consent of  
16 the owner of the land.

17           (b) **ADMINISTRATION.**—In carrying out the program,  
18 the Secretaries shall address issues including—

19                   (1) early detection, identification, and assess-  
20 ment of environmental threats (including insect, dis-  
21 ease, invasive species, fire, and weather-related risks  
22 and other episodic events);

23                   (2) loss or degradation of forests;



1 velopment Act of 2000 (7 U.S.C. 7624 note; Public Law  
2 106–224) is amended—

3 (1) in paragraph (3), by striking “or” at the  
4 end;

5 (2) in paragraph (4), by striking the period at  
6 the end and inserting “; or”; and

7 (3) by adding at the end the following:

8 “(5) research to integrate silviculture, har-  
9 vesting, product development, processing informa-  
10 tion, and economic evaluation to provide the science,  
11 technology, and tools to forest managers and com-  
12 munity developers for use in evaluating forest treat-  
13 ment and production alternatives, including—

14 “(A) to develop tools that would enable  
15 land managers, locally or in a several-State re-  
16 gion, to estimate—

17 “(i) the cost to deliver varying quan-  
18 tities of wood to a particular location; and

19 “(ii) the amount that could be paid  
20 for stumpage if delivered wood was used  
21 for a specific mix of products;

22 “(B) to conduct research focused on devel-  
23 oping appropriate thinning systems and equip-  
24 ment designs that are—

1           “(i) capable of being used on land  
2           without significant adverse effects on the  
3           land;

4           “(ii) capable of handling large and  
5           varied landscapes;

6           “(iii) adaptable to handling a wide va-  
7           riety of tree sizes;

8           “(iv) inexpensive; and

9           “(v) adaptable to various terrains; and

10          “(C) to develop, test, and employ in the  
11          training of forestry managers and community  
12          developers curricula materials and training pro-  
13          grams on matters described in subparagraphs  
14          (A) and (B).”.

15          (b) FUNDING.—Section 310(b) of the Biomass Re-  
16          search and Development Act of 2000 (7 U.S.C. 7624 note;  
17          Public Law 106–224) is amended—

18                 (1) by striking “\$49,000,000” and inserting  
19                 “\$54,000,000”; and

20                 (2) by inserting before the period at the end the  
21                 following: “, of which not less than \$5,000,000 shall  
22                 be used for each fiscal year to carry out section  
23                 307(d)(5)”.

1           **Subtitle E—Revitalization and**  
2   **Research**

3 **SEC. 441. RURAL REVITALIZATION THROUGH FORESTRY.**

4           Section 2371 of the Food, Agriculture, Conservation,  
5 and Trade Act of 1990 (7 U.S.C. 6601) is amended by  
6 adding at the end the following:

7           “(d) RURAL REVITALIZATION TECHNOLOGIES.—

8                           “(1) IN GENERAL.—The Secretary of Agri-  
9 culture, acting through the Chief of the Forest Serv-  
10 ice, in consultation with the State and Private For-  
11 estry Technology Marketing Unit at the Forest  
12 Products Laboratory, and in collaboration with eligi-  
13 ble institutions, may carry out a program—

14                                   “(A) to accelerate adoption of technologies  
15 using biomass and small-diameter materials;

16                                   “(B) to create community-based enter-  
17 prises through marketing activities and dem-  
18 onstration projects; and

19                                   “(C) to establish small-scale business en-  
20 terprises to make use of biomass and small-di-  
21 ameter materials.

22           “(2) AUTHORIZATION OF APPROPRIATIONS.—

23           There is authorized to be appropriated to carry out  
24 this subsection \$5,000,000 for each fiscal year.”.

1 **SEC. 442. UPLAND HARDWOODS RESEARCH CENTER.**

2 (a) IN GENERAL.—Not later than 180 days after the  
3 date of enactment of this Act, the Secretary of Agriculture  
4 (referred to in this section as the “Secretary”) shall estab-  
5 lish an Upland Hardwood Research Center.

6 (b) LOCATION.—The Secretary shall locate the Re-  
7 search Center in an area that, as determined by the Sec-  
8 retary, would best use and study the upland hardwood re-  
9 sources of the Ozark Mountains and the South.

10 (c) DUTIES.—The Upland Hardwood Research Cen-  
11 ter shall, in conjunction with the Southern Forest Re-  
12 search Station of the Department of Agriculture—

13 (1) provide the scientific basis for sustainable  
14 management of southern upland hardwood forests,  
15 particularly in the Ozark Mountains and associated  
16 mountain and upland forests; and

17 (2) conduct research in all areas to emphasize  
18 practical application toward the rehabilitation, res-  
19 toration, and use of upland hardwood forests, par-  
20 ticularly—

21 (A) the effects of pests and pathogens on  
22 upland hardwoods;

23 (B) hardwood stand regeneration and re-  
24 productive biology;

25 (C) upland hardwood stand management  
26 and forest health;

1 (D) threatened, endangered and sensitive  
2 aquatic and terrestrial fauna;

3 (E) ecological processes and hardwood eco-  
4 system restoration; and

5 (F) education and outreach to nonindus-  
6 trial private forest landowners and associations.

7 (d) RESEARCH.—In carrying out the duties under  
8 subsection (c), the Upland Hardwood Research Center  
9 shall cooperate with—

10 (1) the Center for Bottomland Hardwood Re-  
11 search of the Southern Forest Research Station of  
12 the Department of Agriculture, located in Stoneville,  
13 Mississippi; and

14 (2) the Upland Forests Ecosystems Unit of the  
15 Southern Forest Research Station of the Depart-  
16 ment of Agriculture, located in Monticello, Arkansas.

17 (e) PARTICIPATION OF PRIVATE LANDOWNERS.—  
18 The Secretary shall encourage and facilitate the participa-  
19 tion of private landowners in the program under this sec-  
20 tion.

21 (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
22 authorized to be appropriated to carry out this section  
23 \$2,500,000 for each fiscal year.

1       **TITLE V—HEALTHY FORESTS**  
2                   **RESERVE PROGRAM**

3   **SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RE-**  
4                   **SERVE PROGRAM.**

5       The Secretary of Agriculture (referred to in this title  
6 as the “Secretary”) shall establish a healthy forests re-  
7 serve program for the purpose of restoring and enhancing  
8 forest ecosystems—

9           (1) to promote the recovery of threatened and  
10          endangered species;

11          (2) to improve biodiversity; and

12          (3) to enhance carbon sequestration.

13   **SEC. 502. ELIGIBILITY AND ENROLLMENT OF LAND IN PRO-**  
14                   **GRAM.**

15       (a) ELIGIBLE LAND.—

16           (1) DESIGNATION.—The Secretary shall des-  
17          ignate forest ecosystem types for enrollment in the  
18          healthy forests reserve program.

19           (2) CONSULTATION.—In designating land under  
20          paragraph (1), the Secretary shall consult with (as  
21          appropriate)—

22                  (A) the Secretary of the Interior;

23                  (B) the Secretary of Commerce; and

24                  (C) representatives of State agencies and  
25          Indian tribes.

1           (3) ELIGIBILITY.—To be eligible for enrollment  
2           in the healthy forests reserve program, land shall  
3           be—

4                   (A) private land the enrollment of which  
5                   would (as determined by the Secretary) restore,  
6                   enhance, or otherwise measurably increase the  
7                   likelihood of recovery of a species that is listed  
8                   as endangered or threatened under section 4 of  
9                   the Endangered Species Act of 1973 (16 U.S.C.  
10                  1533); and

11                   (B) private land the enrollment of which  
12                   would (as determined by the Secretary) restore,  
13                   enhance, or otherwise measurably increase the  
14                   likelihood of the recovery of an animal or plant  
15                   species before the species reaches threatened or  
16                   endangered status under the Endangered Spe-  
17                   cies Act of 1973 (15 U.S.C. 1531 et seq.), such  
18                   as candidate species, State-listed species, and  
19                   special concern species.

20           (b) OTHER CONSIDERATIONS.—In enrolling land that  
21           satisfies the criteria under subsection (a)(3), the Secretary  
22           shall give additional consideration to land the enrollment  
23           of which would—

24                   (1) improve biological diversity; and

25                   (2) increase carbon sequestration.

1           (c) ENROLLMENT BY WILLING OWNERS.—The Sec-  
 2 retary shall enroll land in the healthy forests reserve pro-  
 3 gram only with the consent of the owner of the land.

4           (d) MAXIMUM ENROLLMENT.—The total number of  
 5 acres enrolled in the healthy forests reserve program shall  
 6 not, to the maximum extent practicable, exceed 1,000,000  
 7 acres at any 1 time.

8           (e) METHODS OF ENROLLMENT.—Land may be en-  
 9 rolled in the healthy forests reserve program in accordance  
 10 with—

11                   (1) a 10-year cost-sharing agreement;

12                   (2) a 30-year easement; or

13                   (3) a permanent easement with a landowner  
 14 choice option.

15           (f) ENROLLMENT PRIORITY.—In carrying out the  
 16 program, the Secretary shall give priority to the enroll-  
 17 ment of land that the Secretary determines would provide  
 18 the best opportunity to resolve conflicts between—

19                   (1) the presence of an animal or plant species  
 20 referred to in subsection (a); and

21                   (2) otherwise permissible land use activities.

22 **SEC. 503. RESTORATION PLANS.**

23           (a) IN GENERAL.—A landowner seeking to enroll eli-  
 24 gible land in the healthy forests reserve program shall sub-

1 mit, for the approval of the Secretary, a restoration plan  
2 that identifies and describes—

3 (1) projects and activities to be carried out on  
4 the enrolled land to meet the purposes of section  
5 501; and

6 (2) land use practices that are permissible on  
7 the enrolled land.

8 (b) COST EFFECTIVENESS.—A restoration plan shall,  
9 to the maximum extent practicable, optimize the environ-  
10 mental benefits per dollar expended.

11 **SEC. 504. FINANCIAL ASSISTANCE.**

12 (a) PERMANENT EASEMENT WITH LANDOWNER  
13 CHOICE OPTION.—

14 (1) PAYMENT AMOUNT.—In the case of land  
15 enrolled in the healthy forests reserve program using  
16 a permanent easement with a landowner choice op-  
17 tion, the Secretary shall pay the owner of the land  
18 an amount equal to the sum of—

19 (A) the fair market value of the enrolled  
20 land during the period the land is subject to the  
21 permanent easement, less the fair market value  
22 of the land encumbered by the easement; and

23 (B) the actual costs of the approved con-  
24 servation practices or the average cost of ap-  
25 proved practices carried out on the land during

1           the period the land is subject to the permanent  
2           easement, as determined by the Secretary.

3           (2) LANDOWNER CHOICE OPTION.—In the case  
4           of land enrolled in the healthy forests reserve pro-  
5           gram using a permanent easement with a landowner  
6           choice option, beginning on date that is 50 years  
7           after the date of enrollment of the land, and every  
8           10 years thereafter, the owner of the land shall be  
9           permitted to purchase the easement back from the  
10          United States for an amount equal to the sum of—

11                   (A) the fair market value of the land less  
12                   the fair market value of the land encumbered  
13                   by the easement; and

14                   (B) the costs, adjusted by the Secretary in  
15                   accordance with the Consumer Price Index for  
16                   all-urban consumers, as published by the Bu-  
17                   reau of Labor Statistics, of the conservation  
18                   practices necessary for establishing the restored  
19                   forest and funded by the healthy forests reserve  
20                   program.

21          (b) 30-YEAR EASEMENT.—In the case of land en-  
22          rolled in the healthy forests reserve program using a 30-  
23          year easement, the Secretary shall pay the owner of the  
24          land an amount equal to the sum of—

1           (1) 75 percent of the fair market value of the  
2           land less the fair market value of the land encum-  
3           bered by the easement; and

4           (2) 75 percent of the actual costs of the ap-  
5           proved conservation practices for the land, as deter-  
6           mined by the Secretary.

7           (c) 10-YEAR AGREEMENT.—In the case of land en-  
8           rolled in the healthy forests reserve program using a 10-  
9           year cost-share agreement, the Secretary of Agriculture  
10          shall pay the owner of the land an amount equal to—

11          (1) 75 percent of the actual costs of the ap-  
12          proved conservation practices for the land, as deter-  
13          mined by the Secretary; or

14          (2) 75 percent of the average cost of approved  
15          conservation practices for the land, as determined by  
16          the Secretary.

17          (d) ACCEPTANCE OF CONTRIBUTIONS.—The Sec-  
18          retary may accept and use contributions of non-Federal  
19          funds to make payments under this section.

20          **SEC. 505. TECHNICAL ASSISTANCE.**

21          (a) IN GENERAL.—The Secretary shall provide land-  
22          owners with technical assistance to assist the landowners  
23          in complying with the terms of agreements and easements  
24          under the healthy forests reserve program and restoration  
25          plans under this title.

1 (b) TECHNICAL SERVICE PROVIDERS.—The Sec-  
2 retary may request the services of, and enter into coopera-  
3 tive agreements with, individuals or entities certified as  
4 technical service providers under section 1242 of the Food  
5 Security Act of 1985 (16 U.S.C. 3842), to assist the Sec-  
6 retary in providing technical assistance necessary to de-  
7 velop and implement the healthy forests reserve program.

8 **SEC. 506. ASSURANCES AND MEASURES.**

9 (a) ASSURANCES.—A landowner that enrolls land in  
10 the healthy forests reserve program may seek appropriate  
11 protection under section 7(b)(4) or 10(a)(1) of the Endan-  
12 gered Species Act of 1973 (16 U.S.C. 1536(b)(4),  
13 1536(a)(1)).

14 (b) MEASURES.—If the protection under subsection  
15 (a) requires the taking of measures for species conserva-  
16 tion in addition to the measures covered by the applicable  
17 restoration plan agreed to under section 503, the addi-  
18 tional measures, as well as the cost of any permit, shall  
19 be considered part of the restoration plan for the purpose  
20 of receiving financial assistance under section 504.

21 **SEC. 507. INVOLVEMENT BY OTHER AGENCIES AND ORGA-**  
22 **NIZATIONS.**

23 In carrying out this title, the Secretary may consult  
24 with other individuals and entities with relevant expertise

1 in the development and implementation of the healthy for-  
2 ests reserve program, including—

- 3 (1) private forest landowners;
- 4 (2) other Federal agencies;
- 5 (3) State agencies;
- 6 (4) forestry schools and other schools in col-  
7 leges and universities (including land grant colleges  
8 and 1890 institutions); and
- 9 (5) nonprofit conservation organizations.

10 **SEC. 508. AUTHORIZATION OF APPROPRIATIONS.**

11 There is authorized to be appropriated to carry out  
12 this title \$15,000,000 for each of fiscal years 2004  
13 through 2008.

14 **TITLE VI—MISCELLANEOUS**  
15 **PROVISIONS**

16 **SEC. 601. PROGRAM FOR EMERGENCY TREATMENT AND RE-**  
17 **DUCTION OF NONNATIVE INVASIVE PLANTS.**

18 (a) DEFINITIONS.—In this section:

19 (1) INTERFACE COMMUNITY.—The term “inter-  
20 face community” has the meaning given the term in  
21 the notice published at 66 Fed. Reg. 751 (January  
22 4, 2001) (including any subsequent revision to the  
23 notice).

24 (2) INTERMIX COMMUNITY.—The term  
25 “intermix community” has the meaning given the

1 term in the notice published at 66 Fed. Reg. 751  
2 (January 4, 2001) (including any subsequent revi-  
3 sion to the notice).

4 (3) PLANT.—The term “plant” includes—

5 (A) a tree;

6 (B) a shrub; and

7 (C) a vine.

8 (4) PROGRAM.—The term “program” means  
9 the program for emergency treatment and reduction  
10 of nonnative invasive plants established under sub-  
11 section (b)(1).

12 (5) SECRETARIES.—The term “Secretaries”  
13 means the Secretary of Agriculture and the Sec-  
14 retary of the Interior, acting jointly.

15 (b) ESTABLISHMENT.—

16 (1) IN GENERAL.—The Secretaries shall estab-  
17 lish a program for emergency treatment and reduc-  
18 tion of nonnative invasive plants to provide to State  
19 and local governments and agencies, conservation  
20 districts, tribal governments, and willing private  
21 landowners grants for use in carrying out hazardous  
22 fuel reduction projects to address threats of cata-  
23 strophic fires that have been determined by the Sec-  
24 retaries to pose a serious threat to—

25 (A) property;

1 (B) human life; or

2 (C) the ecological stability of an area.

3 (2) COORDINATION.—In carrying out the pro-  
4 gram, the Secretaries shall coordinate with such  
5 Federal agencies, State and local governments and  
6 agencies, and conservancy districts as are affected  
7 by projects under the program.

8 (c) ELIGIBLE LAND.—A project under the program  
9 shall—

10 (1) be carried out only on land that is located—

11 (A) in an interface community or intermix  
12 community;

13 (B) in such proximity to an interface com-  
14 munity or intermix community as would pose a  
15 significant risk in the event of the spread of a  
16 fire disturbance event from the land (including  
17 a risk that would threaten human life or prop-  
18 erty in proximity to or within the interface com-  
19 munity or intermix community), as determined  
20 by the Secretaries; or

21 (C) in an area in which the existence of  
22 nonnative invasive plants poses a significant  
23 threat to an ecosystem component;

24 (2) remove fuel loads determined by the Secre-  
25 taries, a State or local government, a tribal govern-

1 ment, or a private landowner to pose a serious  
2 threat to—

3 (A) property;

4 (B) human life; or

5 (C) the ecological stability of an area; and

6 (3) involve the removal of nonnative invasive  
7 plants.

8 (c) USE OF FUNDS.—Funds made available for a  
9 project under the program shall be used only for—

10 (1) the removal of plants or other potential  
11 fuels that are—

12 (A) in proximity to or within an interface  
13 community or intermix community; or

14 (B) in proximity to a municipal watershed,  
15 river, or water course;

16 (2) the removal of erosion structures that im-  
17 pede the removal of nonnative plants; or

18 (3) the replanting of native vegetation to reduce  
19 the reestablishment of nonnative invasive plants in a  
20 treatment area.

21 (d) REIMBURSEMENT OF GRANTS.—As a condition  
22 for receiving assistance for a project under the program,  
23 the recipient of the assistance shall agree that all proceeds  
24 from the sale of timber or biomass removed from land

1 under the project, not to exceed the amount of funds pro-  
2 vided for the project under this section, shall be—

3 (1) deposited in a revolving fund established by  
4 the State; and

5 (2) used to provide additional grants to carry  
6 out projects that are consistent with the program.

7 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated such sums as are nec-  
9 essary to carry out this section, to remain available until  
10 expended.

11 **SEC. 602. SENSE OF CONGRESS REGARDING ENHANCED**  
12 **COMMUNITY FIRE PROTECTION.**

13 It is the sense of Congress to reaffirm the importance  
14 of the enhanced community fire protection program under  
15 section 10A of the Cooperative Forestry Assistance Act  
16 of 1978 (16 U.S.C. 2106c).

○