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WILDLAND FIREFIGHTER SAFETY ACT OF 2007

JUNE 26, 2007.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1152]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1152) to promote wildland firefighter safety, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike section 1 and insert the following:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Wildland Fire Safety and Transparency Act of 2007’.”.

PURPOSE OF THE MEASURE

The purpose of S. 1152 is to promote wildland firefighter safety and facilitate agency and congressional oversight of the Federal agencies’ wildland firefighter safety practices and policies.

BACKGROUND AND NEED

Wildland firefighting has long been a dangerous activity. For example, the National Wildfire Coordinating Group reports 945 fatalities resulting from wildland fire accidents since 1910. In recent years, wildfire behavior has become more extreme, the wildland-urban interface has grown rapidly, and the number and size of wildfires has increased significantly. Despite improvements in wild-fire fighting technologies, these and other factors combine to make wildland firefighting more complex today than ever before.

Between 1910 and the late 1970s and early 1980s, the number of Federal wildland fire fatalities was trending downward, but that trend has reversed, with the number of Federal fatalities slowly in-

creasing since then. The deaths of fourteen Forest Service firefighters on Storm King Mountain in 1994, four in the Thirtymile Fire in 2001, two in the Cramer Fire in 2003, five in the Esperanza Fire in 2006, and many others, particularly highlight the need for continual improvement in and oversight of safety policies and practices.

A number of recent reports have identified serious concerns with the agencies' safety practices. The Occupational Safety and Health Administration found "serious and willful" violations of safety standards by the Forest Service in its investigation of Thirtymile Fire fatalities, noting that a number of them were similar to failures which occurred at the Storm King Mountain fire. It also found willful, serious and repeated violations of safety regulations during its investigation of the Cramer Fire.

The agencies' growing reliance on contract wildfire fighting crews also has presented safety challenges. A report by the Department of Agriculture's Office of Inspector General (Report No. 08601-42-SF, March 2006) identified significant problems with oversight and administration of the Forest Service contracts and agreements for these private crews. The report's "findings confirm the need to address serious control weaknesses with respect to the firefighting contract crews," which led the Inspector General to recommend, among other things, improving oversight of contract crews' qualifications and training.

These and other reports highlight the need for Congress and the Federal agencies to improve oversight in the area of wildfire safety. The agencies indicated at a recent Committee oversight hearing on wildfire that they are working on making some major changes to their training and other safety programs, which further highlights the need for Congress to keep abreast of the agencies' wildfire safety program.

Ensuring timely and sufficient information on the agencies' safety practices and policies is critical to that effort. For example, the Federal agencies currently do not specifically track the portion of their wildfire-related funding that is expended for wildland firefighter safety and training, making oversight of safety program funding difficult. The annual report to Congress required by S. 1152 will help to ensure that information that is critical to improving oversight is available.

LEGISLATIVE HISTORY

S. 1152 was introduced by Senator Cantwell on April 18, 2007. A similar bill, S. 906, was introduced by Senator Cantwell and Senator Murray on April 26, 2005. The Subcommittee on Public Lands and Forests held a hearing on S. 906 on May 10, 2006 (S. Hrg. 109-518).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on May 23, 2007, by voice vote of a quorum present, recommends that the Senate pass S. 1152, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1152, the Committee adopted an amendment to the short title.

SUMMARY OF THE MEASURE

S. 1152 requires the Secretaries of Agriculture and the Interior to jointly submit to Congress an annual report on their agencies' wildland firefighter safety practices and policies, including training programs and other safety-related activities for fire suppression, prescribed burning, and wildland fire use. The report will describe wildland firefighter safety practices and policies, statistics and trend analyses, estimates of expenditures on safety practices, the status of implementing recommendations to improve safety, and specific information relating to wildland firefighters that are utilized pursuant to a Federal contract (such as the Forest Service's National Firefighter Crew Contract) or agreement (such as the Pacific Northwest Wildfire Coordinating Group's Interagency Firefighting Crew Agreement). The definition of "wildland firefighter" makes clear that the report must address safety practices not only for Federal firefighters directly employed by the agencies, but also any other firefighters—including contractors and volunteers—that participate in any wildland firefighting activities under the direction of the Federal agencies.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 1152—Wildland Fire Safety and Transparency Act of 2007

S. 1152 would direct the Secretaries of Agriculture and the Interior to submit an annual report regarding the wildland fire safety practices of designated agencies, such as the Forest Service and the Bureau of Land Management. The reports would provide information on policies, statistics, trends, and progress made on wildland fire safety.

Based on information provided by the affected agencies and assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1152 would cost \$2 million over the 2008–2012 period. This amount would be spent on data collection and report preparation expenses over the five-year period. Enacting this legislation would not affect revenues or direct spending.

The legislation contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contacts for this estimate are Tyler Kruzich and David Reynolds. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1152.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little additional paperwork would result from the enactment of S. 1152.

EXECUTIVE COMMUNICATIONS

Because S. 1152 is similar to legislation considered by the Committee in the 109th Congress, the Committee did not request Executive Agency views on S. 1152. The views of the Administration were included in testimony received by the Committee at a hearing on S. 906 on May 10, 2006.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF FOR NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Subcommittee:

Thank you for the opportunity to appear before you today to provide the Department's views on S. 906—Wildland Firefighter Safety Act of 2005. * * * I am Joel Holtrop, Deputy Chief for the National Forest System, USDA Forest Service.

S. 906 Wildland Firefighter Safety Act

Since the Department of the Interior and the Department of Agriculture work closely together in fire management, the two Departments are providing a joint statement on S. 906, the Wildland Firefighter Safety Act. The bill would require the Secretary of Agriculture and the Secretary of the Interior to track funds expended for firefighter safety and training programs and activities and to include a line item for such expenditures in annual budget requests. This bill would also require the Secretaries to jointly submit a report on the implementation and efficacy of wildland firefighter safety and training programs and activities to Congress each year. In addition, the bill would direct the Secretaries to ensure that any Federal contract or agreement with private entities for firefighting services requires the entity to provide firefighting training consistent with qualification standards set by the National Wildfire Coordinating Group. The Secretaries would be further directed to develop a program to monitor and enforce compliance with this contracting requirement.

The Departments are concerned that a budget line item may not achieve the desired oversight of safety efforts and would carry unnecessary administrative complexities. The Departments do not consider training costs an effective means of determining a firefighter's ability to perform safely.

Furthermore, section 2(a)(1) of the bill applies only to the Secretary of the Interior with respect to public land managed by the Bureau of Land Management. It's impor-

tant to recognize that wildland fire occurs not only on public lands but also on the other Federal lands administered by the Secretary of the Interior through the various other agency heads.

Required training, recurrent training, required experience, and job performance cross multiple budget activities and are extremely difficult to track at the budget line item level. Federal and state agencies provide funding for national and advanced training academies as well as training at more local levels. Virtually every firefighting training course includes some element of fire safety. For these reasons, the Departments do not support S. 906 in its present form.

Rather than focus upon budget structure, the Departments suggest that an annual report, which would focus on measurable firefighter performance and the efficacy of our safety and training practices and activities, would better assist the Departments' continual improvement of safety and performance and would provide information to Congress in its oversight capacity. Indeed, actions are already underway to report to Congress. For fiscal year 2007, the Forest Service will report to Congress (as part of the national performance measures) the accident frequency rate for firefighter injuries during the suppression of fires under Forest Service jurisdiction. The Department of the Interior tracks and reports the number of firefighter injuries and the amount of time lost from firefighter injuries as a proportion of all time spent firefighting. This information is reported as part of the 10-Year Comprehensive Strategy Implementation Plan for Reducing Wildland Fire Risks.

We are taking additional action to improve tracking of firefighter safety and training measures.

As this Subcommittee is aware, after the investigations of fatal fires in the last 10 years, we re-examined our safety and training policies, practices, and performance and implemented numerous significant changes. These changes have been developed in cooperation with the Occupational Safety and Health Administration, the Department of the Interior and other interagency partners through the National Wildfire Coordinating Group. In addition, an audit by the USDA Office of Inspector General (OIG) in 2004 of the Forest Service firefighter safety program and in 2006 of firefighting contract crews provided recommendations that assisted the Forest Service and the Department of the Interior agencies in identifying areas for improvement. We have made significant progress in improving safety, training, certification, accountability, and reporting.

The National Wildfire Coordinating Group (NWCG), made up of representatives from the Forest Service, Department of the Interior agencies, Tribes, and State forestry agencies, establishes minimum requirements for training, experience, physical fitness level, and currency standards for wildland fire positions. All participating agencies must meet these requirements for national mobi-

lization. All firefighters—federal, tribal, state, local, or contract—carry a position qualifications document (known as a Red Card) that shows the firefighter has met all the training, experience, and physical fitness requirements to perform a specific job under NWCG standards. The Forest Service has augmented these standards to meet specific safety requirements for the Forest Service.

Certification of each firefighter is the responsibility of the employing agency. Firefighters must successfully complete coursework and multiple training assignments before they are certified for positions. Individual firefighters are trained to meet unit, regional and national needs. Performance based qualification standards, training courses, annual training to maintain currency, drills, and demonstrated successful performance prepare firefighters for conditions they may encounter.

I would like to give you an update of items we have improved in safety, training, certification, accountability, and reporting for firefighters and contract firefighting crews.

The Incident Qualifications Certification System (IQCS), now fully operational, responds to the need for accurate tracking of qualifications and centralized records as recommended in the 2004 USDA OIG report on firefighter safety. Training, on-the-job experience, and certification of each firefighter are documented and then added to the IQCS. Every federal firefighter must be qualified and in the system before they can be assigned by fire managers. State, local, and contract firefighters use different tracking systems.

The 2006 OIG review of crew contract firefighting programs reported the need for program oversight and gave several recommendations for improvements. As a result, experience requirements have been included in the 2006 crew contracts and qualification records were reviewed prior to contract awards. The Forest Service is working with the Pacific Northwest Coordinating Group to establish a process to ensure contract associations' training meets the National Wildfire Coordinating Group standards. Also included in the 2006 crew contracts is a provision for standardized language assessment to ensure that there are no communication barriers that would contribute to unsafe conditions. The Forest Service is coordinating with other Federal agencies to identify counterfeit documents used to obtain employment on contract crews. In addition, temporary workers—that is, workers hired on a short-term basis during an emergency—must also meet agency certification requirements.

The interagency Wildland Fire Leadership Development Program trains firefighters and managers in leadership values through a curriculum of courses designed to span the career of wildland firefighters from entry level through management and leadership levels. Individual firefighters and managers improve their leadership skills through self-directed continuing education efforts using the on-line re-

source (www.fireleadership.gov) to prepare themselves for the decision-making demands of firefighting.

The Federal Interagency Firefighter Medical Qualifications and Standards program was developed by the Interagency Medical Standards Team under the direction of the National Fire and Aviation Executive Board. This program established medical qualifications, standards, and procedures to ensure that firefighters have an appropriate level of health and not be at unnecessary risk, or put others at risk, in performing arduous firefighter duties. The program is intended to ensure that sufficient information is available to make a medically sound judgment of whether an individual could safely perform the firefighter duties.

Mr. Chairman and members of the Subcommittee, we believe that examining firefighter performance and safety as a whole, rather than simply tracking training costs, helps us to better assess overall quality and effectiveness of our programs. We welcome continuing oversight from Congress to help us make further progress in this area, and we believe that providing Congress an annual report on the performance and efficacy of our overall firefighting program would produce the desired outcome.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1152 as ordered reported.

