



## Legislative & Policy Update – November 2017

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The [Council of Western State Foresters \(CWSF\) Legislative & Policy Update](#) provides information on issues of importance to the CWSF. Policy and Legislative Updates are found on the CWSF webpage [here](#). Please note that the items highlighted in these updates are only a selection of the issues the CWSF and Western Forestry Leadership Coalition (WFLC) are monitoring. Keep an eye out for our monthly newsletter that will provide summaries on other key legislative and programmatic issues. If you have not yet subscribed, you can do so [here](#).

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This policy update addresses recent activities relating to the proposed Wildfire Prevention and Mitigation Act of 2017, including introduction of the bill and Senate testimony by Wyoming State Forester Bill Crapser. The update also summarizes the White House's most recent disaster relief request, and gives a status report on FY2018 appropriations.

### Senate Committee on Environment and Public Works Hearing

Wyoming State Forester Bill Crapser testified on October 25, 2017 before the U.S. Senate Committee on the Environment and Public Works at a [hearing](#) on a draft version of the Wildfire Prevention and Mitigation Act of 2017 (see below). Crapser submitted [written](#) and oral testimony describing the challenges facing forest managers, and particularly those at the federal level.

According to Crapser, “federal managers are not aggressively thinning or using prescribed burning or other tools on our state’s federal forests in large measure because of expensive and time-consuming environmental analysis processes.”

Crapser said the draft Wildfire Prevention and Mitigation Act of 2017 addresses many of the regulatory challenges these managers face. “Streamlining the implementation of the Endangered Species Act will be helpful. Arbitration to resolve disputes will be helpful. Restoration targets will be helpful. The expansion of the use of categorical exclusions (CEs) for forests at risk to wildfire or forests needing habitat improvement, will be helpful,” Crapser said. Additionally, Crapser shared that the National Association of State Foresters has a [policy platform](#) with specific and detailed ideas for federal forest reform.

A press release by the Senate Committee on Bill Crapser’s testimony can be found [here](#).

## Wildfire Prevention and Mitigation Act Introduced

On November 2, U.S. Senator John Barrasso (R-WY), chairman of the Senate Committee on Environment and Public Works (EPW), joined with Sens. Orrin Hatch (R-UT), John Thune (R-SD), and Steve Daines (R-MT), introduced the [Wildfire Prevention and Mitigation Act of 2017](#). [Bill authors say](#) the proposed legislation will enhance forest management to more effectively mitigate severity of catastrophic wildfires. They also say the bill will provide increased protections for wildlife habitat threatened by wildfires. The legislation aims to accomplish these goals primarily by streamlining environmental review for ecosystem restoration projects, and through efforts to discourage costly and time-consuming lawsuits.

The bill creates a number of new CEs for use in the National Environmental Policy Act (NEPA) process. A new category of CEs will apply to activities necessitated by certain “critical response situations” including disease and insect infestations, threats to watersheds, and other high-risk areas. Another new CE applies to certain sage-grouse and mule deer habitat vegetation projects that address areas affected by the expansion of pinyon pine, juniper tree, or invasive vegetation. Other CEs would be established or modified in the bill to streamline wildlife habitat improvement, forest thinning, and insect and disease infestation. In addition, USDA Forest Service ecosystem restoration projects would be required to consider only two alternatives during the planning process: an "action" alternative, and a "no action" alternative.

As for the legislation’s intent to minimize litigation, the bill would establish a five-year pilot arbitration process for forest management disputes that would result in binding decisions not subject to judicial review. The bill also statutorily reverses the U.S. Court of Appeals for the Ninth Circuit's *Cottonwood* decisions by codifying the position taken by the Obama administration that federal agencies are not required to consult with the U.S. Fish and Wildlife Service at a programmatic level when new critical habitat is designated or a new species is listed.

## Administration Requests Additional Wildfire Relief

The White House sent its third [disaster relief request](#) to Congress on November 17. The request, in part, proposes a number of tax breaks to supplement the financial aid that was provided in the previous disaster relief package for wildfire assistance. The request does not include any additional funding for wildfire prevention or mitigation, but does suggest a list of tax incentives to help private landowners deal with rebuilding efforts that will come in the aftermath of an uncharacteristically severe wildfire season.

The administration suggested a menu of tax breaks for private landowners affected by wildfire, including non-itemized deductions for casualty losses (waiving the current-law requirement that losses exceed 10 percent of adjusted gross income), penalty-free access to retirement funds, disaster-related employment relief, earned income tax credit reporting-year flexibility, and enhancement of charitable giving incentives.

This request comes on the heels of October’s passage of a [\\$36.5 billion disaster relief package](#) that allocated \$576.5 million to wildfire recovery efforts.

## Senate Releases Draft FY2018 Interior Bill

On November 20, the Senate Committee on Appropriations released the fiscal year (FY) 2018 chairmen's recommendation and [explanatory statement](#) for the [Interior Bill](#), providing recommendations for appropriating money to a variety of federal land management and natural resource agencies, including the USDA Forest Service. The House passed their version of the FY2018 Interior Bill back in July, but the Senate draft version contains a number of key differences.

The Senate version, for example, includes an additional \$495 million for Forest Service wildland fire suppression activities with an emergency designation in the event the 10-year average appropriated is not sufficient to cover the costs of wildfire suppression. These emergency funds would be available only if discretionary funds for suppression are exhausted. It also includes the Forest Service State Fire Assistance and Volunteer Fire Assistance programs under the State and Private Forestry Budget Line Item (BLI), rather than under the Wildland Fire Management BLI.

The Forest Legacy Program--which had taken a 40% cut in the House version--is funded near historic levels in the Senate's proposed bill, receiving nearly \$59 million compared to the House version's \$36 million. Conversely, the Senate version reduces funding for the Urban and Community Forestry program to just over \$21 million--down from the House version's \$27 million.

Like the House version, the Senate draft accepts the Administration's request to move the Hazardous Fuels Reduction BLI from administration under State and Private Forestry to National Forest System administration. The Chairman's remarks, however, indicate cross-boundary collaboration will continue to be a focus of the program. "The Committee urges the Forest Service to increase cross-boundary collaboration with landowners near National Forest System lands, and encourages the use of hazardous fuels funding for work across ownerships."

Members of the Committee--and Congress in general--will have to act quickly to pass appropriating legislation on schedule. On November 16, Senate Appropriations Committee Chairman Thad Cochran (R-MS) [released a statement](#) reiterating the Committee's intent to pass spending legislation before the current continuing resolution expires.

"The current continuing resolution expires December 8. We cannot afford to extend that continuing resolution into next year," said Cochran. "A budget agreement is necessary for the Senate to approve responsible appropriations legislation. I urge all parties to those negotiations to redouble their efforts to reach agreement."

Just last week, however, House Speaker Paul Ryan (R-WI) [indicated](#) another continuing resolution may be in the works. "We might need a little more time to let the appropriators write their bill," said Ryan in a [press conference](#), adding that he didn't believe much more time was needed. "We're not talking about going into next year, we're talking about getting it done this year."