



**CWSF**  
COUNCIL OF WESTERN  
STATE FORESTERS

## Legislative & Policy Update – September 2020

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The [Council of Western State Foresters \(CWSF\) Legislative & Policy Update](#) provides information on issues of importance to 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 CWSF and the 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](#). For more information, please contact Danielle Okst, Associate Policy and Grants Director at [dokst@westernforesters.org](mailto:dokst@westernforesters.org).

Multiple bills concerning wildfire and mitigation have been introduced or discussed during legislative hearings this month due to heightened awareness around the issue as western states continue to face an increasingly challenging fire year. Modernization of the Endangered Species Act (ESA) to facilitate greater efficiency in forest management activities has also been a topic of discussion, and the House has passed a Continuing Resolution (CR) which will now move to the Senate in order to halt a partial government shutdown as the end of Fiscal Year (FY) 2020 approaches. The Council for Environmental Quality's (CEQ) National Environmental Policy Act (NEPA) modernization rules overcame one of their legal hurdles this month and went forward with implementation. Two more western states have finalized shared stewardship agreements, formalizing commitments to work collaboratively across landscapes to improve the nation's forests.

### **Legislative Hearings**

#### **The Emergency Wildfire and Public Safety Act of 2020**

The Senate Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining held a [legislative hearing](#) on Wednesday, September 16. Senators Steven Daines (R-MT) and Dianne Feinstein's (D-CA) Emergency Wildfire and Public Safety Act of 2020 ([S. 4431](#)) was among the bills addressed. Discussion of this bipartisan legislation came amid growing national attention due to wildfires raging across the west, particularly in California, Oregon, and Washington. The bill would establish 3,000 new categorical exclusions to accelerate management near existing roads, trails, and transmission lines, expand the use of wildfire detection equipment, accelerate post-fire restoration and reforestation, provide new authority for the USDA Forest Service (Forest Service) and Bureau of Land Management to work collaboratively with state agencies to implement wildfire mitigation projects based on restorative forest management needs, [among other things](#).

#### **The Endangered Species Act Amendments of 2020**

The Senate Committee on Environment and Public Works' hearing "[Modernizing the Endangered Species Act: Legislative Hearing on S. 4589, the Endangered Species Act Amendments of 2020](#)" was held on Wednesday, September 23. [S. 4589](#) aims to make essentially the same changes to the ESA as the previous 2018 version of this bill did, which [the National Association of State Foresters \(NASF\) supported](#). Specifically, this bill would:

- require the development of species recovery plans with the help of state officials as well as feedback from parties with a direct interest in the land in which the species is believed to occur, specifically regarding any practical consideration affecting implementation of a recovery plan;
- provide to each state affected by an ESA listing the opportunity to lead recovery planning, implementation planning, and implementation; and
- block judicial review of a determination to delist a threatened or endangered species until after a post-delisting monitoring period expires.

NASF's 2020 ESA Reform Policy Statement and letter of support for this bill's introduction is [here](#), and the section-by-section is [here](#).

### **Fire-Focused Legislation**

Fire conditions in the west have pressed legislatures to enact legislation aimed at reducing the risk of catastrophic wildfires. The two most recent pieces of such legislation introduced focus on biomass and prescribed fire for mitigation.

#### **The Forest Health and Biomass Energy Act of 2020**

The Forest Health and Biomass Energy Act of 2020 ([S. 4603](#)) was introduced by Senator [Martha McSally \(R-AZ\)](#). The bill seeks to incentivize biomass energy development as a method to reduce hazardous fuel build-up in fire-prone forests, direct the assessment of biomass energy fuel potential in U.S. forests with a focus on identifying the most viable sources for energy use, and establish a fund to assist timber operators and biomass energy producers in removal and transportation of biomass material out of high hazard areas.

#### **The National Prescribed Fire Act of 2020**

Senators [Ron Wyden \(D-OR\)](#), Joe Manchin (D-WV), and Maria Cantwell (D-WA) have introduced [the National Prescribed Fire Act of 2020](#). The legislation would establish \$300 million accounts for both the Forest Service and the Department of the Interior (DOI) to plan, prepare, and conduct controlled burns on federal, state, and private lands, as well as require both agencies to increase the number of acres treated with controlled burns. Focusing on the concept that some smoke in the air now through prescribed burns is better than greater amounts of smoke caused by large unplanned fires later, the Act would require state air quality agencies to allow larger controlled burns and greater flexibility in the winter months to reduce the catastrophic summer smoke events currently being experienced. This bill also establishes collaborative programs and incentive programs to promote greater use and scale of controlled burns, as well as a workforce development program to increase the number of prescribed fire practitioners. A one-page summary can be found [here](#) and a section-by-section summary [here](#).

### **Fiscal Year 2021 Appropriations**

This week, the House voted on the Continuing Appropriations Act, 2021 and Other Extensions Act ([H.R. 8337](#)) and it [passed](#) by 359 to 57. This CR represents a bipartisan agreement to extend FY 2020 funding levels through December 11. In addition to providing this extension for Congress to work on appropriations bills, this Act also provides approximately \$8 billion in nutrition assistance. This legislation will now move to the Senate for consideration. Section 148 allows the Forest Service to transition funding to the new budget structure as they are required by Congress. Please see [here](#) for additional information in the section-by-section summary.

### **Council for Environmental Quality's National Environmental Policy Act Modernization**

Based on a [U.S. District Court ruling](#), which declined to issue a preliminary injunction halting implementation pending a final determination by the court, the CEQ's NEPA [modernization rules](#) went into effect on September 14. The rules were finalized in July and include provisions to expedite the review process, such as

placing stricter timelines and page limits on environmental analysis and limiting the consideration of factors like cumulative environmental and climate impacts for projects. While the modernized rules went into effect as planned, the final determination of this challenge by environmental groups, along with others filed in California and New York, are still pending and may impact implementation in the future.

### **Wyoming and Nebraska’s Shared Stewardship Agreements**

Wyoming signed their Shared Stewardship Agreement at the end of August. The [agreement](#) identifies shared principles and priorities and outlines the Forest Service and the state of Wyoming’s commitment to “work together on forest and grassland restoration across all land ownerships, with a focus on protecting at-risk communities and watersheds from wildfire.” The Forest Service’s press release is [here](#).