

109TH CONGRESS
1ST SESSION

H. R. 3818

To authorize the Secretary of Agriculture to enter into partnership agreements with entities and local communities to encourage greater cooperation in the administration of Forest Service activities on and near National Forest System lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2005

Mr. WALDEN of Oregon (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Secretary of Agriculture to enter into partnership agreements with entities and local communities to encourage greater cooperation in the administration of Forest Service activities on and near National Forest System lands, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Forest Service Partnership Enhancement Act of 2005”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Authority for agreements.
- Sec. 5. Cost sharing.
- Sec. 6. Funds.
- Sec. 7. Watershed restoration and enhancement agreements.
- Sec. 8. Repeal of superseded authorities.
- Sec. 9. Regulations.
- Sec. 10. Agreements otherwise authorized by law.

3 **SEC. 2. FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) The Forest Service, managing national for-
6 ests and grasslands covering 192,000,000 acres,
7 plays an integral role in the protection, enhance-
8 ment, and conservation of the natural resources of
9 the United States.

10 (2) The Forest Service has a long history of
11 successful cooperation with non-Federal entities in
12 fulfilling all mission areas and responsibilities of the
13 Forest Service.

14 (3) By expanding and clarifying Forest Service
15 authorities to work with cooperators, the Forest
16 Service can improve the ability of the Forest Service
17 to administer National Forest System lands by in-
18 creasing local community involvement in collabo-
19 rative restoration and building the capacity of rural

1 public land communities in fulfilling the Forest
2 Service's mission.

3 (4) The Forest Service can benefit from maxi-
4 mizing use of existing authorities and establishing
5 new authority to improve local community involve-
6 ment in, and support of, fulfilling the Forest Serv-
7 ice's mission.

8 (5) Encouraging conservation education will in-
9 crease public awareness of Forest Service programs
10 and activities, will heighten public understanding of
11 the need to sustain natural and cultural resources,
12 and will promote public participation in the con-
13 servation of these resources.

14 (6) Encouraging partnerships with public land
15 communities will expedite the implementation of pri-
16 ority restoration projects on National Forest System
17 lands.

18 (b) PURPOSES.—The purposes of this Act are—

19 (1) to encourage agreements between the For-
20 est Service and cooperators to promote public aware-
21 ness and participation in the restoration and man-
22 agement of the resources and programs of the For-
23 est Service;

24 (2) to affirm Congress' support for agreements
25 between the Forest Service and cooperators that fur-

1 ther the Forest Service’s mission by assisting the
2 Forest Service in the administration of all Forest
3 Service programs;

4 (3) to clarify and create additional authority for
5 the Forest Service to work with cooperators; and

6 (4) to leverage Forest Service resources with
7 the resources of cooperators.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) COOPERATOR.—The term “cooperator”
11 means any Federal agency, State, local, or Tribal
12 government, public or private agency, nonprofit or-
13 ganization, institution (including educational institu-
14 tion), small and local business, corporation, or other
15 legal entity within the United States, or individual.

16 (2) NATIONAL FOREST SYSTEM LANDS.—The
17 term “National Forest System lands” means lands
18 included in the National Forest System (as defined
19 in section 11(a) of the Forest and Rangeland Re-
20 newable Resources Planning Act of 1974 (16 U.S.C.
21 1609(a))).

22 (3) SECRETARY.—The term “Secretary” means
23 the Secretary of Agriculture, acting through the
24 Chief of the Forest Service.

1 (4) NONPROFIT ORGANIZATION.—The term
2 “nonprofit organization” means any organization de-
3 scribed in section 501(c)(3) of the Internal Revenue
4 Code of 1986 and exempt from tax under section
5 501(a) of such Code.

6 **SEC. 4. AUTHORITY FOR AGREEMENTS.**

7 (a) IN GENERAL.—Notwithstanding chapter 63 of
8 title 31, United States Code (except as provided in sub-
9 section (c)), the Secretary may enter into—

10 (1) agreements with cooperators for the mutual
11 benefit of the parties, including cost share agree-
12 ments for sharing costs of activities or services oth-
13 erwise authorized by law, including obtaining print-
14 ing services from cooperators in connection with
15 jointly produced publications for which the Secretary
16 and the cooperator share the costs of printing, either
17 by means of cash or in kind contributions; and

18 (2) agreements with cooperators, for the mutual
19 benefit of the parties, for—

20 (A) developing, producing, publishing, dis-
21 tributing, or selling education and interpretive
22 materials and products;

23 (B) developing, conducting, or selling edu-
24 cational and interpretive programs and services;

1 (C) constructing, maintaining, or improv-
2 ing facilities not under the jurisdiction, custody,
3 or control of the Administrator of General Serv-
4 ices on or in the vicinity of National Forest
5 System lands for the sale or distribution of edu-
6 cational and interpretive materials, products,
7 programs, and services;

8 (D) operating facilities (including pro-
9 viding the services of Forest Service employees
10 to staff facilities) in or on any public or private
11 building, facility, or land not under the jurisdic-
12 tion, custody, or control of the Administrator of
13 General Services for the sale or distribution of
14 educational materials, products, programs, and
15 services, pertaining to National Forest System
16 lands, private lands and lands administered by
17 other public entities;

18 (E) selling health and safety convenience
19 products, photography supplies, or other similar
20 items (as determined by the Secretary) on or in
21 the vicinity of National Forest System lands;

22 (F) collecting funds from the sale of mate-
23 rials, products, programs, and services on be-
24 half of cooperators; and

1 (G) restoring and maintaining ecological
2 integrity and biodiversity of National Forest
3 System lands.

4 (b) TERMS AND CONDITIONS.—The Secretary shall
5 require such terms and conditions as are necessary to pro-
6 tect the public investments, including terms related to
7 ownership of facilities or improvements, and such addi-
8 tional terms and conditions as are mutually agreed to by
9 the Secretary and the cooperator.

10 (c) LIMITATION.—The Secretary may not enter into
11 an agreement under this section where a procurement con-
12 tract, grant, or cooperative agreement under chapter 63
13 of title 31, United States Code, would be appropriate.

14 **SEC. 5. COST SHARING.**

15 (a) SHARING OF COSTS.—The manner in which costs
16 shall be shared between the Secretary and a cooperator,
17 including acceptance of in-kind contributions, shall be pro-
18 vided for in the agreement entered into with the coop-
19 erator under section 4. The Secretary shall issue guidance
20 for cost sharing with cooperators.

21 (b) TREATMENT OF CONTRIBUTIONS OF VOLUN-
22 TEERS.—The value of services performed by persons who
23 volunteer their services to the Forest Service and who are
24 recruited, trained, and supported by a cooperator under
25 an agreement under section 4 may be considered an in-

1 kind contribution of the cooperator for purposes of cost
2 sharing under subsection (a)

3 **SEC. 6. FUNDS.**

4 (a) DEPOSIT OF FUNDS.—Except as provided in sub-
5 section (b), all monies received from a cooperator as con-
6 tributions toward cooperative activities under an agree-
7 ment entered into under section 4 shall be—

8 (1) deposited in the Forest Service Cooperative
9 Work Trust Fund established pursuant to the penul-
10 timate paragraph under the heading “FOREST SERV-
11 ICE” in the Act of June 30, 1914 (16 U.S.C. 498),
12 or the successor of that fund; and

13 (2) available to the Secretary, without further
14 appropriation and until expended, to carry out the
15 agreement.

16 (b) FUNDS COLLECTED.—Funds collected under an
17 agreement entered into under section 4 from the sale of
18 materials, products, programs, and services on behalf of
19 a cooperators, as authorized by subsection (a)(2)(F) of
20 such section, are not the property of the United States,
21 and the Secretary shall forward such funds to the coop-
22 erator.

23 (c) ADVANCEMENT OR REIMBURSEMENT OF
24 FUNDS.—In an agreement entered into under section 4,
25 the Secretary may advance or reimburse funds to a coop-

1 erator from any Forest Service appropriation available for
2 similar work without regard to the provisions of subsection
3 (a) and (b) of section 3324 of title 31, United States Code,
4 and may furnish or share supplies, facilities, or equipment.
5 The Secretary may advance funds under this subsection
6 only when the advancement represents the Secretary's
7 share of costs of activities or services under the agreement
8 and the cooperater is not obligated to reimburse the Sec-
9 retary.

10 **SEC. 7. WATERSHED RESTORATION AND ENHANCEMENT**
11 **AGREEMENTS.**

12 (a) IN GENERAL.—Notwithstanding chapter 63 of
13 title 31, United States Code, to the extent funds are other-
14 wise available, the Secretary may use appropriations for
15 the Forest Service to enter into cooperative agreements
16 with an eligible entity to carry out activities on National
17 Forest System lands or non-Federal lands within a water-
18 shed for the following purposes:

19 (1) The protection, restoration, and enhance-
20 ment of resources, including fish and wildlife habi-
21 tat.

22 (2) The reduction of risk from natural disasters
23 where public safety is threatened.

24 (b) TERMS AND CONDITIONS.—

1 (1) REQUIRED TERMS.—In order for the Sec-
2 retary to enter into a watershed restoration and en-
3 hancement agreement authorized in subsection (a),
4 the agreement shall—

5 (A) include such terms and conditions mu-
6 tually agreed to by the Secretary and other par-
7 ties to the agreement;

8 (B) improve the viability of and otherwise
9 benefit the fish, wildlife, and other resources on
10 National Forest System lands within the water-
11 shed;

12 (C) authorize the provision of technical as-
13 sistance by the Secretary in the planning of
14 management activities that will further the pur-
15 poses of the agreement;

16 (D) provide for the sharing of costs of im-
17 plementing the agreement among the parties to
18 the agreement, as mutually agreed on by the
19 parties;

20 (E) ensure that any expenditure by the
21 Secretary pursuant to the agreement is deter-
22 mined by the Secretary to be in the public in-
23 terest; and

24 (2) ADDITIONAL TERMS.—The Secretary may
25 include such additional terms and conditions in the

1 watershed restoration and enhancement agreement
2 as the Secretary considers necessary to protect the
3 public investment on non-Federal land, so long as
4 the terms and conditions are mutually agreed to by
5 the other parties to the agreement.

6 (c) ACTIVITIES ON NON-FEDERAL LAND.—Activities
7 on non-Federal land provided for under an agreement
8 under this section must benefit resources on National For-
9 est System lands or non-Federal lands so as to provide
10 a direct or indirect benefit to resources on National Forest
11 System lands.

12 (d) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
13 tion, the term “eligible entity” means—

- 14 (1) a Federal agency;
- 15 (2) a Tribal, State or local government;
- 16 (3) a private individual or organization; or
- 17 (4) a nonprofit organization.

18 **SEC. 8. REPEAL OF SUPERSEDED AUTHORITIES.**

19 (a) EDUCATIONAL MATERIALS AND CHALLENGE
20 COST-SHARE PROGRAM.—The thirteenth paragraph
21 under the heading “ADMINISTRATIVE PROVISIONS, FOR-
22 EST SERVICE” in title II of the Department of the Interior
23 and Related Agencies Appropriations Act, 1992 (Public
24 Law 102–154; 105 Stat. 1018; 31 U.S.C. 6305 note), is
25 repealed.

1 (b) WATERSHED RESTORATION AND ENHANCEMENT
2 AGREEMENTS.—Section 323 of the Department of the In-
3 terior and Related Agencies Appropriations Act, 1999 (as
4 contained in section 101(e) of division A of Public Law
5 105–277; 112 Stat. 2681–290; 16 U.S.C. 1011 note).

6 **SEC. 9. REGULATIONS.**

7 The Secretary shall issue such regulations as may be
8 necessary to accomplish the purposes of this Act.

9 **SEC. 10. AGREEMENTS OTHERWISE AUTHORIZED BY LAW.**

10 Except in the case of the provisions of law repealed
11 by section 8, the authorities provided to the Secretary in
12 this Act are in addition to the authorities provided in any
13 other provision of law, and nothing in this Act shall be
14 construed as limiting or modifying the authority of the
15 Secretary to enter into agreements otherwise authorized
16 by law.

○