

118TH CONGRESS
1ST SESSION

S. 1238

To amend the Plant Protection Act for purposes of mitigating the threat of invasive species, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2023

Mr. WELCH (for himself, Mr. BRAUN, and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Plant Protection Act for purposes of mitigating the threat of invasive species, 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.**

4 This Act may be cited as the “Invasive Species Pre-
5 vention and Forest Restoration Act”.

6 **SEC. 2. EMERGENCY AUTHORITY WITH RESPECT TO**
7 **INVASIVE SPECIES.**

8 Section 442 of the Plant Protection Act (7 U.S.C.
9 7772) is amended—

1 (1) in subsection (a), by inserting “directly or
2 indirectly” before “threatens”;

3 (2) in subsection (b)—

4 (A) by striking “shall remain” and insert-
5 ing the following: “shall—
6 “(1) remain”;

7 (B) in paragraph (1) (as so designated), by
8 striking the period at the end and inserting “;
9 and”; and

10 (C) by adding at the end the following:

11 “(2) be transferred not later than 60 days after
12 the date on which the Secretary determines that
13 there is an emergency described in subsection (a).”;

14 (3) by redesignating subsection (c) as sub-
15 section (d); and

16 (4) by inserting after subsection (b) the fol-
17 lowing:

18 “(c) EMERGENCY DETERMINATION.—In determining
19 whether there is an emergency described in subsection (a),
20 the Secretary shall consider, but shall not treat as a dis-
21 positive factor, whether there are sufficient Federal funds
22 available to timely achieve the arrest, control, eradication,
23 or prevention of the spread of the applicable plant pest
24 or noxious weed.”.

1 **SEC. 3. FOREST RECLAMATION GRANTS.**

2 Subtitle K of the National Agricultural Research, Ex-
3 tension, and Teaching Policy Act of 1977 (7 U.S.C. 3310
4 et seq.) is amended by adding at the end the following:

5 **“SEC. 1473I. FOREST RECLAMATION GRANTS.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
8 tity’ means any of the following:

9 “(A) A Federal agency.

10 “(B) A State cooperative institution.

11 “(C) A college or university offering a bac-
12 calaureate or higher degree in the study of
13 food, forestry, and agricultural sciences.

14 “(D) An organization described in section
15 501(c)(3) of the Internal Revenue Code of 1986
16 and exempt from taxation under section 501(a)
17 of that Code.

18 “(2) NOXIOUS WEED; PLANT PEST.—The terms
19 ‘noxious weed’ and ‘plant pest’ have the meanings
20 given those terms in section 403 of the Plant Pro-
21 tection Act (7 U.S.C. 7702).

22 “(b) GRANT AWARDS.—For purposes of addressing
23 the critical threat to numerous tree species posed by non-
24 native plant pests and noxious weeds, the Secretary shall
25 award competitive grants to eligible entities under which
26 the eligible entities shall—

1 “(1) conduct research to promote the restora-
2 tion of affected tree species, including research on—

3 “(A) biological control of nonnative plant
4 pests or noxious weeds threatening or heavily
5 damaging native tree species;

6 “(B) exploration of genetic manipulation of
7 plant pests or noxious weeds;

8 “(C) enhancement of pest-resistance mech-
9 anisms of hosts; and

10 “(D) development of other strategies for
11 restoring individual tree species; and

12 “(2) develop, and disseminate to the public,
13 tools and information based on the research con-
14 ducted under paragraph (1).

15 “(c) APPLICATIONS.—An eligible entity seeking to re-
16 ceive a grant under this section shall submit to the Sec-
17 retary an application at such time, in such manner, and
18 containing such information as the Secretary may require,
19 including a description of a comprehensive forest restora-
20 tion research program to be carried out by the eligible en-
21 tity using the funds received through the grant.

22 “(d) USE OF FUNDS.—

23 “(1) IN GENERAL.—An eligible entity receiving
24 a grant under this section shall use the funds re-
25 ceived through the grant to conduct research in-

1 tended to address specific questions relating to the
2 recovery of tree species that are native to the United
3 States and suffering severe levels of mortality caused
4 by nonnative plant pests or noxious weeds.

5 “(2) MATCHING REQUIREMENT.—

6 “(A) IN GENERAL.—An eligible entity re-
7 ceiving a grant under this section shall provide
8 matching funds from non-Federal sources in an
9 amount equal to not less than 20 percent of the
10 grant.

11 “(B) INDIRECT COSTS.—

12 “(i) IN GENERAL.—Indirect costs
13 charged against a grant awarded under
14 this section shall not exceed 30 percent of
15 the total Federal funds provided under the
16 grant award.

17 “(ii) INCLUSIONS.—Indirect costs de-
18 scribed in clause (i) shall include—

19 “(I) equipment used in relation
20 to the grant;

21 “(II) capital improvements of fa-
22 cilities that are necessary to carry out
23 the grant;

24 “(III) accounting costs, personnel
25 costs, and administrative costs in-

1 curred by an eligible entity necessary
2 to carry out the grant; and

3 “(IV) such other costs as the
4 Secretary determines to be appro-
5 priate.

6 “(3) MAXIMUM AMOUNT OF GRANTS.—An eligi-
7 ble entity may not receive more than a total of
8 \$400,000 per year in grant funding under this sec-
9 tion.

10 “(e) COOPERATION AMONG ELIGIBLE ENTITIES.—
11 To the maximum extent practicable, the Secretary shall
12 encourage eligible entities to cooperate in setting research
13 priorities under this section.

14 “(f) COMMITTEES.—In carrying out this section, the
15 Secretary shall—

16 “(1) establish a committee of experts composed
17 of representatives of the Forest Service, the Animal
18 and Plant Health Inspection Service, the Agricul-
19 tural Research Service, and State forestry agencies
20 to advise the Secretary on criteria appropriate for—

21 “(A) defining research topics eligible for
22 funding under this section;

23 “(B) reviewing the adherence of grant pro-
24 posals to the purposes described in subsection
25 (b)(1); and

1 “(C) membership in scientific peer review
2 panels to review grant applications under this
3 section; and

4 “(2) establish an advisory committee composed
5 of representatives of land-grant colleges and univer-
6 sities and affiliated State agricultural experiment
7 stations, the forest products industry, recreationists,
8 and professional forester, conservation, and con-
9 servation scientist organizations to assist the com-
10 mittee of experts established under paragraph (1)
11 with respect to the responsibilities of that committee
12 described in subparagraphs (A), (B), and (C) of that
13 paragraph.

14 “(g) REPORTS.—Not later than 1 year after the date
15 on which the first grant is awarded under this section,
16 and annually thereafter, the Secretary shall submit to the
17 Committee on Agriculture of the House of Representatives
18 and the Committee on Agriculture, Nutrition, and For-
19 estry of the Senate a report describing the use of funds
20 under this section in the previous year.

21 “(h) FUNDING.—Of the funds of the Commodity
22 Credit Corporation, the Secretary shall use to carry out
23 this section—

24 “(1) \$3,000,000 for fiscal year 2023;

25 “(2) \$5,000,000 for fiscal year 2024;

1 “(3) \$8,000,000 for fiscal year 2025; and

2 “(4) \$10,000,000 for fiscal year 2026.”.

3 **SEC. 4. FOREST RESTORATION IMPLEMENTATION GRANTS.**

4 Subtitle K of the National Agricultural Research, Ex-
5 tension, and Teaching Policy Act of 1977 (7 U.S.C. 3310
6 et seq.) (as amended by section 3) is amended by adding
7 at the end the following:

8 **“SEC. 1473J. FOREST RESTORATION IMPLEMENTATION**
9 **GRANTS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
12 tity’ means any of the following:

13 “(A) A cooperating forestry school.

14 “(B) A land-grant college or university.

15 “(C) A State agricultural experimental sta-
16 tion.

17 “(D) An organization described in section
18 501(c)(3) of the Internal Revenue Code of 1986
19 and exempt from taxation under section 501(a)
20 of that Code.

21 “(2) NOXIOUS WEED; PLANT PEST.—The terms
22 ‘noxious weed’ and ‘plant pest’ have the meanings
23 given those terms in section 403 of the Plant Pro-
24 tection Act (7 U.S.C. 7702).

1 “(b) GRANT AWARDS.—The Secretary may award
2 grants on a competitive basis under this section to eligible
3 entities to support—

4 “(1) the implementation of research conducted
5 under section 1473I; or

6 “(2) any other solution that the committee es-
7 tablished under subsection (f)(1) of that section de-
8 termines to be effective in restoring forest tree spe-
9 cies native to forests in the United States that have
10 suffered severe levels of mortality caused by non-
11 native plant pests or noxious weeds.

12 “(c) APPLICATION.—An eligible entity seeking to re-
13 ceive a grant under this section shall submit to the Sec-
14 retary an application at such time, in such manner, and
15 containing such information as the Secretary may require,
16 including a demonstration that the eligible entity has a
17 program in effect with a forest restoration strategy that
18 incorporates a majority of the following components:

19 “(1) Collection and conservation of native tree
20 genetic material.

21 “(2) Production of propagules of native trees in
22 numbers large enough for landscape-scale restora-
23 tion.

1 “(3) Preparation of planting sites in former
2 habitats of the native tree species that are the sub-
3 jects of the application.

4 “(4) Planting of native tree seedlings.

5 “(5) Post-planting maintenance of native trees.

6 “(d) SELECTION CRITERIA.—The Secretary shall se-
7 lect an eligible entity to receive a grant under this section
8 based on the degree to which the application submitted
9 by the eligible entity under subsection (c) addresses the
10 following criteria:

11 “(1) The risk posed to the forests of the State
12 in which the work is to be conducted using funding
13 received through the grant by nonnative plant pest
14 or noxious weed species present in the State.

15 “(2) The proportion of the forest land of the
16 State composed of species vulnerable to nonnative
17 plant pests or noxious weeds present in the United
18 States.

19 “(3) The rate of spread in the State, through
20 natural or human-assisted means, of nonnative plant
21 pests or noxious weeds.

22 “(4) The environmental and public health safe-
23 ty of the project proposed to be conducted using
24 funding received through the grant, as demonstrated
25 by supporting research.

1 “(e) MATCHING REQUIREMENT.—

2 “(1) IN GENERAL.—An eligible entity receiving
3 a grant under this section shall provide matching
4 funds from non-Federal sources in an amount equal
5 to not less than 10 percent of the grant.

6 “(2) INDIRECT COSTS.—

7 “(A) IN GENERAL.—Indirect costs charged
8 against a grant awarded under this section
9 shall not exceed 30 percent of the total Federal
10 funds provided under the grant award.

11 “(B) INCLUSIONS.—Indirect costs de-
12 scribed in subparagraph (A) shall include—

13 “(i) equipment used in relation to the
14 grant;

15 “(ii) capital improvements of facilities
16 that are necessary to carry out the grant;

17 “(iii) accounting costs, personnel
18 costs, and administrative costs incurred by
19 an eligible entity necessary to carry out the
20 grant; and

21 “(iv) such other costs as the Secretary
22 determines to be appropriate.

23 “(f) FUNDING.—

24 “(1) IN GENERAL.—Of the funds of the Com-
25 modity Credit Corporation, the Secretary shall use

1 to carry out this section \$25,000,000 for each of fis-
2 cal years 2023 through 2026.

3 “(2) LIMITATION.—Of the funds made available
4 under paragraph (1) for a fiscal year, not more than
5 5 percent may be used by the Secretary for expenses
6 relating to the administration of this section.”.

7 **SEC. 5. STUDY ON PROTECTION OF FORESTS FROM NON-**
8 **NATIVE PLANT PESTS AND PATHOGENS.**

9 (a) FINDINGS.—Congress finds that—

10 (1) many Federal agencies have important roles
11 to play in addressing nonnative plant pests and
12 pathogens in the stewardship and management of
13 forests by those Federal agencies;

14 (2) because of a lack of national policy, non-
15 native plant pests and pathogens of forests are a low
16 priority for all Federal agencies; and

17 (3) efforts to prevent the introduction and
18 spread of nonnative plant pests and pathogens, and
19 especially to reduce the resulting damage and re-
20 store tree species to forests, lack coordination and
21 action.

22 (b) STUDY.—

23 (1) IN GENERAL.—The Secretary of Agriculture
24 (referred to in this section as the “Secretary”) shall
25 seek to enter into an agreement (referred to in this

1 section as the “Agreement”) with the National
2 Academy of Sciences, or another nongovernmental
3 entity that the Secretary determines to be most ap-
4 propriate, under which the National Academy of
5 Sciences or other entity, as applicable, not later than
6 1 year after the date of enactment of this Act, shall
7 conduct, and submit to Congress a report describing
8 the results of, a study to analyze the available re-
9 sources that Federal agencies have to research, and
10 find solutions to, nonnative plant pests and patho-
11 gens.

12 (2) RECOMMENDATIONS.—The report sub-
13 mitted pursuant to paragraph (1) shall include rec-
14 ommendations—

15 (A) with respect to—

16 (i) establishing a national policy to ef-
17 fectively counter the threat posed by non-
18 native pests and disease pathogens to tree
19 species, including preventing the introduc-
20 tion and spread of those pests and patho-
21 gens, minimizing the damage caused by
22 those pests and pathogens, and restoring
23 affected tree species to the forest;

24 (ii) improving coordination and co-
25 operation among Federal agencies with re-

1 sponsibility for management and repair of
2 the decimation of tree species affected by
3 nonnative pests and disease pathogens and
4 associated ecological destruction;

5 (iii) addressing the low prioritization
6 by the Federal agencies described in clause
7 (ii) of nonnative plant pests and pathogens
8 affecting forests and trees;

9 (iv)(I) identifying expertise and site
10 and facility resources within the Federal
11 agencies described in clause (ii); and

12 (II) improving coordination among
13 those agencies with respect to the manage-
14 ment and repair described in clause (ii),
15 including coordination with academic insti-
16 tutions and other appropriate nonprofit or-
17 ganizations;

18 (v) the establishment of a center for
19 nonnative forest pest control, prevention,
20 and species restoration within the Depart-
21 ment of Agriculture, including potential or-
22 ganizational structures of such a center,
23 with an emphasis on including representa-
24 tion of a wide variety of appropriate agen-
25 cies within the center, including the Ani-

1 mal and Plant Health Inspection Service,
2 the Agriculture Research Service, the Na-
3 tional Institute of Food and Agriculture,
4 the Natural Resources Conservation Serv-
5 ice, the Forest Service, and any other
6 agency that the Secretary determines is
7 appropriate; and

8 (vi)(I) giving priority to the emer-
9 gency response of the Department of Agri-
10 culture to an emergency relating to non-
11 native pests and disease pathogens;

12 (II) clarifying the coordination of the
13 Department of Agriculture with other Fed-
14 eral agencies in responding to those emer-
15 gencies; and

16 (III) identifying funding levels suffi-
17 cient to carry out responses to those emer-
18 gencies; and

19 (B) that—

20 (i) take into account existing Federal
21 resources; and

22 (ii) may be implemented through fur-
23 ther legislative and administrative action.

24 (3) CONSULTATION.—The Agreement shall re-
25 quire the National Academy of Sciences or other en-

1 tity, as applicable, to consult with specialists in ento-
2 mology, genetics, forest pathology, tree breeding,
3 forest and urban ecology, and invasive species man-
4 agement.

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