

115TH CONGRESS
1ST SESSION

S. _____

To protect and sustain the Prairie Grasslands Region, including the Tallgrass Prairie National Preserve, to amend the Clean Air Act to require the exclusion of data of an exceedance or violation of a national ambient air quality standard caused by a prescribed fire in the Prairie Grasslands Region, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MORAN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To protect and sustain the Prairie Grasslands Region, including the Tallgrass Prairie National Preserve, to amend the Clean Air Act to require the exclusion of data of an exceedance or violation of a national ambient air quality standard caused by a prescribed fire in the Prairie Grasslands Region, 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 “Prairie Grasslands
5 Preservation Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the Flint Hills Region of Kansas and the
4 Osage Hills Region of Oklahoma contain the world's
5 largest share of the remaining tallgrass prairie, and
6 are among the few places in which that habitat oc-
7 curs in landscape proportions;

8 (2) the Tallgrass Prairie National Preserve is
9 located in the Flint Hills Region and is intended to
10 protect and sustain the only tallgrass prairie in the
11 National Park System;

12 (3) the Smoky Hills Region of Kansas contains
13 tallgrass and mixed-grass prairie vegetation in large
14 tracts that provide—

15 (A) important seasonal habitat for migrat-
16 ing birds; and

17 (B) crucial nesting and brooding habitat
18 for birds that nest in grassland;

19 (4) the Red Hills Region of Kansas is a mixed-
20 grass and sand sage prairie ecosystem that is eco-
21 logically important because—

22 (A) after the Flint Hills Region, the Red
23 Hills Region is the largest intact tract of native
24 prairie in Kansas; and

25 (B) the Red Hills Region is home to sev-
26 eral declining wildlife species, such as the lesser

1 prairie chicken, that require large,
2 unfragmented tracts of native prairie;

3 (5) only 4 percent of the presettlement tallgrass
4 prairie in North America survives to this day, and
5 80 percent of that prairie is located in Kansas;

6 (6) the Flint Hills Region, the Osage Hills Re-
7 gion, and the Smoky Hills Region are also home to
8 certain declining avian species, such as the greater
9 prairie chicken and Henslow's sparrow, that cannot
10 continue to exist without large expanses of native
11 tallgrass prairie in an original state;

12 (7) the Flint Hills Region, the Osage Hills Re-
13 gion, the Red Hills Region, and the Smoky Hills Re-
14 gion are significant corridors for migrating
15 shorebirds, such as the American golden plover, the
16 buff-breasted sandpiper, and the upland sandpiper;

17 (8) beginning in the mid-19th century, cattle-
18 men understood that the richness of the grasses of
19 the Flint Hills Region, the Osage Hills Region, the
20 Red Hills Region, and the Smoky Hills Region de-
21 pended on a good spring burn, something the cattle-
22 men learned from the Native Americans;

23 (9) fire still thrives in the Flint Hills Region,
24 the Osage Hills Region, the Red Hills Region, and
25 the Smoky Hills Region because the ranchers, and

1 others using the land, understand that the natural
2 ecosystem depends on fire;

3 (10) ranchers, landowners, and conservation or-
4 ganizations use prescribed burns to mimic the sea-
5 sonal fires that have shaped the tallgrass prairie for
6 thousands of years;

7 (11) areas not burned for several years develop
8 mature grasses and thicker, thatch-like vegetation, a
9 habitat that is preferred by invasive species;

10 (12) the Flint Hills Region, the Osage Hills Re-
11 gion, the Red Hills Region, and the Smoky Hills Re-
12 gion are places in the United States that are exam-
13 ples of the prevailing agricultural system working es-
14 sentially in tandem with an ancestral native eco-
15 system, preserving most of the complexity and the
16 dynamic processes that helped shape the area; and

17 (13) due to the uniqueness of the prairie grass-
18 land of the Flint Hills Region, the Osage Hills Re-
19 gion, the Red Hills Region, and the Smoky Hills Re-
20 gion and the historic manner in which the Prairie
21 Grasslands Region has been managed by fire—

22 (A) prescribed burn practices used as of
23 the date of enactment of this Act to manage the
24 Prairie Grassland Region should be allowed to
25 continue; and

1 (B) ambient air data resulting from fires
2 used for that management should be not be in-
3 cluded in determinations of compliance with the
4 Clean Air Act (42 U.S.C. 7401 et seq.).

5 **SEC. 3. PRESCRIBED FIRES.**

6 The Clean Air Act is amended by inserting after sec-
7 tion 329 (42 U.S.C. 7628) the following:

8 **“SEC. 330. PRESCRIBED FIRES IN THE PRAIRIE GRASS-**
9 **LANDS REGION.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) FLINT HILLS REGION.—

12 “(A) IN GENERAL.—The term ‘Flint Hills
13 Region’ means the band of hills located in east-
14 ern Kansas that exhibits characteristics of a
15 tallgrass prairie ecosystem.

16 “(B) INCLUSIONS.—The term ‘Flint Hills
17 Region’ includes—

18 “(i) Butler, Chase, Chautauqua, Clay,
19 Cowley, Dickinson, Elk, Geary, Greenwood,
20 Harvey, Jackson, Lyon, Marion, Marshall,
21 Morris, Ottawa, Pottawatomie, Riley, Sa-
22 line, Shawnee, Wabaunsee, Washington,
23 and Woodson Counties in the State of
24 Kansas; and

1 “(ii) any county contiguous to a coun-
2 ty described in clause (i).

3 “(2) OSAGE HILLS REGION.—

4 “(A) IN GENERAL.—The term ‘Osage Hills
5 Region’ means the band of hills located in
6 northeastern Oklahoma that exhibits character-
7 istics of a tallgrass prairie ecosystem.

8 “(B) INCLUSIONS.—The term ‘Osage Hills
9 Region’ includes—

10 “(i) Osage, Tulsa, and Washington
11 Counties in the State of Oklahoma; and

12 “(ii) any county contiguous to a coun-
13 ty described in clause (i).

14 “(3) PRAIRIE GRASSLANDS REGION.—The term
15 ‘Prairie Grasslands Region’ means the landscape
16 comprised of—

17 “(A) the Flint Hills Region;

18 “(B) the Osage Hills Region;

19 “(C) the Red Hills Region;

20 “(D) the Smoky Hills Region; and

21 “(E) any other area designated by the Ad-
22 ministrators under subsection (g).

23 “(4) PRESCRIBED FIRE.—The term ‘prescribed
24 fire’ means a fire that is set or managed by a person
25 with the goal of enhancing a fire-dependent eco-

1 system or enhancing the productivity of agricultural
2 grazing land, irrespective of the frequency with
3 which the burn occurs.

4 “(5) RED HILLS REGION.—

5 “(A) IN GENERAL.—The term ‘Red Hills
6 Region’ means the band of hills located in
7 southern and central Kansas that exhibits char-
8 acteristics of a mixed-grass and sand sage eco-
9 system.

10 “(B) INCLUSIONS.—The term ‘Red Hills
11 Region’ includes—

12 “(i) Barber, Clark, Comanche, Har-
13 per, Kingman, and Meade Counties in the
14 State of Kansas; and

15 “(ii) any county contiguous to a coun-
16 ty described in clause (i).

17 “(6) SMOKY HILLS REGION.—

18 “(A) IN GENERAL.—The term ‘Smoky
19 Hills Region’ means the band of hills located in
20 north-central Kansas that exhibits characteris-
21 ties of a tallgrass and mixed-grass prairie eco-
22 system.

23 “(B) INCLUSIONS.—The term ‘Smoky
24 Hills Region’ includes—

1 “(i) Barton, Clay, Cloud, Dickinson,
2 Edwards, Ellis, Ellsworth, Ford, Gove,
3 Graham, Gray, Hodgeman, Jewell, Lane,
4 Lincoln, Logan, Marion, McPherson,
5 Mitchell, Ness, Norton, Osborne, Ottawa,
6 Pawnee, Phillips, Republic, Rice, Rooks,
7 Rush, Russell, Saline, Trego, and Wash-
8 ington Counties in the State of Kansas;
9 and

10 “(ii) any county contiguous to a coun-
11 ty described in clause (i).

12 “(b) EXCLUSION OF DATA.—In determining whether,
13 with respect to a specific air pollutant, an exceedance or
14 violation of a national ambient air quality standard has
15 occurred, or for any other purpose under this Act, a State
16 and the Administrator shall exclude data from a particular
17 air quality monitoring location if emissions from 1 or more
18 prescribed fires in the Prairie Grasslands Region cause a
19 concentration of the air pollutant at the location to be in
20 excess of the standard.

21 “(c) SPECIFIC LIMITATIONS.—If emission data is ex-
22 cluded under subsection (b) from a particular air quality
23 monitoring station because of emissions from 1 or more
24 prescribed fires in the Prairie Grasslands Region—

1 “(1) the Administrator shall not, as a result of
2 the emissions, find under section 113 that a State
3 has failed to enforce, or that a person has violated,
4 a State implementation plan (for national primary
5 or secondary ambient air quality standards) under
6 section 110; and

7 “(2) a State shall not, as a result of the emis-
8 sions, find that a person has violated, or bring an
9 enforcement action for violation of, a State imple-
10 mentation plan (for national primary or secondary
11 ambient air quality standards) under section 110.

12 “(d) PROHIBITION AGAINST SMOKE MANAGEMENT
13 PLANS.—

14 “(1) IN GENERAL.—The Administrator shall
15 not require a smoke management plan under this
16 Act in connection with any prescribed fire in the
17 Prairie Grasslands Region.

18 “(2) VOLUNTARY STATE PLAN.—Nothing in
19 this section prohibits a State from administering a
20 voluntary smoke management plan to assist vol-
21 untary participants to mitigate the effects of a pre-
22 scribed fire on air quality.

23 “(e) NOT A STATIONARY SOURCE.—No building,
24 structure, facility, or installation may be treated as a sta-

1 tionary source under this Act as a result of 1 or more
2 prescribed fires in the Prairie Grasslands Region.

3 “(f) NO TITLE V PERMIT REQUIRED.—No person
4 shall be required to obtain or modify a permit under title
5 V in connection with a prescribed fire in the Prairie Grass-
6 lands Region.

7 “(g) DESIGNATION BY THE ADMINISTRATOR.—The
8 Administrator, on request by a State, shall designate a
9 county of the State as part of the Prairie Grasslands Re-
10 gion if—

11 “(1) the county is located in the Prairie Grass-
12 lands Region Critical Conservation Area, as des-
13 ignated by the Secretary of Agriculture on May 27,
14 2014; and

15 “(2) a prescribed fire has been or will be used
16 on any portion of the landscape of the county.”.