

113TH CONGRESS
1ST SESSION

H. R. 818

To address the bark beetle epidemic, drought, deteriorating forest health conditions, and high risk of wildfires on National Forest System land and land under the jurisdiction of the Bureau of Land Management in the United States by expanding authorities established in the Healthy Forest Restoration Act of 2003 to provide emergency measures for high-risk areas identified by such States, to make permanent Forest Service and Bureau of Land Management authority to conduct good-neighbor cooperation with States to reduce wildfire risks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2013

Mr. TIPTON (for himself, Mr. BISHOP of Utah, Mr. GARDNER, Mr. LAMBORN, Mr. COFFMAN, Mr. MCCLINTOCK, Mr. GOSAR, Mr. AMODEI, Mr. YOUNG of Alaska, Mr. LABRADOR, Mrs. LUMMIS, Mr. PEARCE, and Mr. DAINES) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Natural 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 address the bark beetle epidemic, drought, deteriorating forest health conditions, and high risk of wildfires on National Forest System land and land under the jurisdiction of the Bureau of Land Management in the United States by expanding authorities established in the Healthy Forest Restoration Act of 2003 to provide emergency measures for high-risk areas identified by such States, to make permanent Forest Service and Bureau

of Land Management authority to conduct good-neighbor cooperation with States to reduce wildfire risks, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Healthy Forest Management and Wildfire Prevention
 6 Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Congressional declaration of bark beetle epidemic, drought, deteriorating forest health conditions, and high risk of wildfires in States as imminent threat.
- Sec. 4. State designation of high-risk areas of National Forest System and public lands.
- Sec. 5. Designation of high-risk areas by the Secretary concerned.
- Sec. 6. Use of emergency hazardous fuels reduction projects for high-risk areas.
- Sec. 7. Applicability of expedited procedures and authorities of Healthy Forests Restoration Act of 2003 to emergency hazardous fuels reduction projects.
- Sec. 8. Forest Service and Bureau of Land Management good-neighbor cooperation with States to reduce wildfire risks.
- Sec. 9. Stewardship end result contracting project authority.

9 **SEC. 2. DEFINITIONS.**

10 In this Act:

11 (1) EMERGENCY HAZARDOUS FUELS REDUC-
 12 TION PROJECT.—The term “emergency hazardous
 13 fuels reduction project” means a project or activity
 14 carried out in a high-risk area to address the bark
 15 beetle epidemic, drought, or deteriorating forest

1 health conditions and the resulting imminent risk of
2 devastating wildfires.

3 (2) HIGH-RISK AREA.—The term “high-risk
4 area” means an area of National Forest System
5 land or public lands identified under section 4 as an
6 area suffering from the bark beetle epidemic,
7 drought, or deteriorating forest health conditions,
8 with the resulting imminent risk of devastating
9 wildfires, or otherwise at high risk for bark beetle
10 infestation, drought, or wildfire.

11 (3) NATIONAL FOREST SYSTEM.—The term
12 “National Forest System” has the meaning given
13 that term in section 11(a) of the Forest and Range-
14 land Renewable Resources Planning Act of 1974 (16
15 U.S.C. 1609(a)).

16 (4) PUBLIC LANDS.—The term “public lands”
17 has the meaning given that term in section 103(e)
18 of the Federal Land Policy and Management Act of
19 1976 (43 U.S.C. 1702(e)).

20 (5) SECRETARY CONCERNED.—The term “Sec-
21 retary concerned” means—

22 (A) the Secretary of Agriculture, with re-
23 spect to the National Forest System; and

24 (B) the Secretary of the Interior, with re-
25 spect to public lands.

1 (6) The term “State” means any of the several
2 States containing National Forest System land or
3 public lands. The term includes the Commonwealth
4 of Puerto Rico.

5 **SEC. 3. CONGRESSIONAL DECLARATION OF BARK BEETLE**
6 **EPIDEMIC, DROUGHT, DETERIORATING FOR-**
7 **EST HEALTH CONDITIONS, AND HIGH RISK**
8 **OF WILDFIRES IN STATES AS IMMINENT**
9 **THREAT.**

10 Congress hereby declares that the bark beetle epi-
11 demic, drought, and deteriorating forest health conditions
12 on National Forest System land and public lands in the
13 States, with the resulting imminent risk of devastating
14 wildfires that pose a significant threat to the economic sta-
15 bility of communities in the affected areas and the health,
16 safety, and well-being of residents, firefighters, and visi-
17 tors to the areas, is an “imminent threat” within the
18 meaning of section 294.12(b)(1) of title 36, Code of Fed-
19 eral Regulations (2002 Edition) and any existing or pend-
20 ing roadless area management rule applicable to a State.

21 **SEC. 4. STATE DESIGNATION OF HIGH-RISK AREAS OF NA-**
22 **TIONAL FOREST SYSTEM AND PUBLIC LANDS.**

23 (a) DESIGNATION AUTHORITY.—The Governor of a
24 State may designate high-risk areas of the National For-

1 est System and public lands in the State for the purposes
2 of addressing—

3 (1) deteriorating forest health conditions in ex-
4 istence as of the date of the enactment of this Act
5 due to the bark beetle epidemic or drought, with the
6 resulting imminent risk of devastating wildfires; and

7 (2) the future risk of insect infestations or dis-
8 ease outbreaks through preventative treatments to
9 improve forest health conditions.

10 (b) CONSULTATION.—In designating high-risk areas,
11 the Governor of a State shall consult with county govern-
12 ment from affected counties and with affected Indian
13 tribes.

14 (c) EXCLUSION OF CERTAIN AREAS.—The following
15 National Forest System land or public lands may not be
16 designated as a high-risk area:

17 (1) A component of the National Wilderness
18 Preservation System.

19 (2) A National Monument.

20 (d) STANDARDS FOR DESIGNATION.—Designation of
21 high-risk areas shall be consistent with standards and
22 guidelines contained in the land and resource management
23 plan or land use plan for the unit of the National Forest
24 System or public lands for which the designation is being
25 made, except that the Secretary concerned may modify

1 such standards and guidelines to correspond with a spe-
2 cific high-risk area designation.

3 (e) TIME FOR INITIAL DESIGNATIONS.—The first
4 high-risk areas should be designated not later than 60
5 days after the date of the enactment of this Act but may
6 be designated at any time consistent with subsection (a).

7 (f) DURATION OF DESIGNATION.—The designation of
8 a high-risk area in a State shall expire 20 years after the
9 date of the designation, unless earlier terminated by the
10 Governor of the State.

11 (g) REDESIGNATION.—The expiration of the 20-year
12 period specified in subsection (f) does not prohibit the
13 Governor from redesignating an area of the National For-
14 est System land or public lands as a high-risk area under
15 this section if the Governor determines that the area of
16 National Forest System land or public lands continues to
17 be subject to the terms of this section.

18 (h) RECOGNITION OF VALID AND EXISTING
19 RIGHTS.—The designation of a high-risk area shall not
20 be construed to limit or restrict—

21 (1) access to National Forest System land or
22 public lands included in the area for hunting, fish-
23 ing, and other related purposes; or

24 (2) valid and existing rights regarding the Na-
25 tional Forest System land or public lands.

1 **SEC. 5. DESIGNATION OF HIGH-RISK AREAS BY THE SEC-**
2 **RETARY CONCERNED.**

3 (a) DESIGNATION AUTHORITY.—The Secretary con-
4 cerned may designate high-risk areas of the National For-
5 est System and the public lands for the purposes of ad-
6 dressing—

7 (1) deteriorating forest health conditions in ex-
8 istence as of the date of the enactment of this Act
9 due to the bark beetle epidemic or drought, with the
10 resulting imminent risk of devastating wildfires; and

11 (2) the future risk of insect infestations or dis-
12 ease outbreaks through preventative treatments to
13 improve forest health conditions.

14 (b) CONSULTATION.—In designating high-risk areas,
15 the Secretary concerned shall consult with Governors of
16 affected States, county government from affected counties,
17 and with affected Indian tribes.

18 (c) EXCLUSION OF CERTAIN AREAS.—The following
19 National Forest System land or public lands may not be
20 designated as a high-risk area:

21 (1) A component of the National Wilderness
22 Preservation System.

23 (2) A National Monument.

24 (d) STANDARDS FOR DESIGNATION.—Designation of
25 high risk areas shall be consistent with standards and
26 guidelines contained in the land and resource management

1 plan or land use plan for the unit of the National Forest
2 System or public lands for which the designation is being
3 made, except that the Secretary concerned may modify
4 such standards and guidelines to correspond with a spe-
5 cific high-risk area designation.

6 (e) TIME FOR INITIAL DESIGNATIONS.—The first
7 high-risk areas should be designated not later than 60
8 days after the date of the enactment of this Act but may
9 be designated at any time consistent with subsection (a).

10 (f) DURATION OF DESIGNATION.—The designation of
11 a high-risk area in a State shall expire 20 years after the
12 date of the designation, unless earlier terminated by the
13 Secretary concerned.

14 (g) REDESIGNATION.—The expiration of the 20-year
15 period specified in subsection (f) does not prohibit the Sec-
16 retary concerned from redesignating an area of the Na-
17 tional Forest System or public lands as a high-risk area
18 if the Secretary determines that the National Forest Sys-
19 tem land or public lands continues to be subject to the
20 terms of this section, except that such redesignation is
21 subject to consultation with Governors from affected
22 States, county government from affected counties, and af-
23 fected Indian tribes.

1 (h) RECOGNITION OF VALID AND EXISTING
2 RIGHTS.—The designation of a high-risk area shall not
3 be construed to limit or restrict—

4 (1) access to National Forest System land or
5 public lands included in the area for hunting, fish-
6 ing, and other related purposes; or

7 (2) valid and existing rights regarding the Na-
8 tional Forest System land or public lands.

9 **SEC. 6. USE OF EMERGENCY HAZARDOUS FUELS REDUC-**
10 **TION PROJECTS FOR HIGH-RISK AREAS.**

11 (a) PROJECT PROPOSALS.—

12 (1) PROPOSALS AUTHORIZED.—Upon designa-
13 tion of a high-risk area in a State, the Governor of
14 the State may provide for the development of pro-
15 posed emergency hazardous fuels reduction projects
16 for the high-risk area. The Secretary concerned also
17 may develop emergency hazardous fuels reduction
18 projects.

19 (2) PROJECT CRITERIA.—In preparing proposed
20 emergency hazardous fuels reduction projects, the
21 Governor of a State and the Secretary concerned
22 shall—

23 (A) take into account managing for rights
24 of way, protection of watersheds, protection of
25 wildlife and endangered species habitat, safe-

1 guarding water resources, and protecting local
2 communities from wildfires; and

3 (B) emphasize activities that thin the for-
4 est to provide the greatest health and longevity
5 of the forest.

6 (b) CONSULTATION.—In preparing proposed emer-
7 gency hazardous fuels reduction projects, the Governor of
8 a State shall consult with county government from af-
9 fected counties, and with affected Indian tribes. If the Sec-
10 retary concerned develops a proposal, the Secretary con-
11 cerned shall consult with the Governor of the affected
12 State, county government from affected counties, and af-
13 fected Indian tribes.

14 (c) SUBMISSION AND IMPLEMENTATION.—The Gov-
15 ernor of a State shall submit proposed emergency haz-
16 ardous fuels reduction projects to the Secretary concerned
17 for implementation.

18 (d) IMPLEMENTATION OF PROJECTS.—

19 (1) STATE PROPOSED PROJECTS.—The Sec-
20 retary concerned shall implement hazardous fuels re-
21 duction projects proposed by Governors within 60
22 days of the date on which the Secretary receives the
23 proposal.

24 (2) SECRETARY PROPOSED PROJECTS.—The
25 Secretary concerned shall implement hazardous fuels

1 reduction projects proposed by the Secretary con-
2 cerned within 60 days of the date on which the pro-
3 posal is finalized.

4 **SEC. 7. APPLICABILITY OF EXPEDITED PROCEDURES AND**
5 **AUTHORITIES OF HEALTHY FORESTS RES-**
6 **TORATION ACT OF 2003 TO EMERGENCY HAZ-**
7 **ARDOUS FUELS REDUCTION PROJECTS.**

8 (a) **APPLICABILITY.**—Subject to subsections (b)
9 through (e), title I of the Healthy Forests Restoration Act
10 of 2003 (16 U.S.C. 6511 et seq.) (including the environ-
11 mental analysis requirements of section 104 of that Act
12 (16 U.S.C. 6514), the special administrative review proc-
13 ess under section 105 of that Act (16 U.S.C. 6515), and
14 the judicial review process under section 106 of that Act
15 (16 U.S.C. 6516)), shall apply to all emergency hazardous
16 fuels reduction projects developed under section 6.

17 (b) **APPLICATION OF OTHER LAW.**—Section 322 of
18 Public Law 102–381 (16 U.S.C. 1612 note; 106 Stat.
19 1419) shall not apply to Forest Service emergency haz-
20 ardous fuels reduction projects.

21 (c) **REQUIRED MODIFICATIONS.**—In applying title I
22 of the Healthy Forests Restoration Act of 2003 (16
23 U.S.C. 6511 et seq.) to emergency hazardous fuels reduc-
24 tion projects, the Secretary concerned shall make the fol-
25 lowing modifications:

1 (1) The authority shall apply to the entire high-
2 risk area, including land that is outside of a
3 wildland-urban interface area or that does not sat-
4 isfy any of the other eligibility criteria specified in
5 section 102(a) of that Act (16 U.S.C. 6512(a)).

6 (2) All projects and activities of the Secretary
7 concerned, including necessary connected actions (as
8 described in section 1508.25(a)(1) of title 40, Code
9 of Federal Regulations), of the emergency hazardous
10 fuels reduction project shall be deemed to be an au-
11 thorized hazardous fuel reduction project for pur-
12 poses of applying the title.

13 (3) The Secretary is not required to study, de-
14 velop, or describe more than the proposed agency ac-
15 tion and a no-action alternative in the environmental
16 assessment or environmental impact statement pre-
17 pared pursuant to section 102(2) of the National
18 Environmental Policy Act of 1969 (42 U.S.C.
19 4332(2)) for an emergency hazardous fuels reduc-
20 tion project, except that, if an at-risk community
21 has adopted a community wildfire protection plan
22 (as defined in section 101(3) of the Healthy Forest
23 Restoration Act of 2003 (16 U.S.C. 6511(3))) that
24 includes the land covered by the proposed agency ac-
25 tion, but the proposed agency action does not imple-

1 ment the recommendations in the plan regarding the
2 general location and basic method of treatments, the
3 Secretary shall evaluate the recommendations in the
4 plan as an additional alternative to the proposed
5 agency action.

6 (d) FOREST MANAGEMENT PLANS.—All projects and
7 activities carried out as part of an emergency hazardous
8 fuels reduction project in a designated high-risk area shall
9 be consistent with standards and guidelines contained in
10 the land and resource management plan or land use plan
11 for the unit of the National Forest System or public lands
12 for which the designation is made, except that the Sec-
13 retary concerned may modify such standards and guide-
14 lines to correspond with a specific high-risk area designa-
15 tion.

16 (e) RETENTION OF NEPA RESPONSIBILITIES.—Any
17 decision required to be made under the National Environ-
18 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with
19 respect to any project or activity to be carried out as part
20 of an emergency hazardous fuels reduction project in a
21 high-risk area shall not be delegated to a State forester
22 or any other officer or employee of the State in which the
23 emergency hazardous fuels reduction project will be car-
24 ried out.

1 (f) CATEGORICAL EXCLUSION.—If a project or activ-
2 ity to be carried out as part of an emergency hazardous
3 fuels reduction project in a high-risk area involves the re-
4 moval of insect-infected trees or other hazardous fuels
5 within 500 feet of utility or telephone infrastructure,
6 campgrounds, roadsides, heritage sites, recreation sites,
7 schools, or other infrastructure, the project or activity is
8 categorically excluded from the requirement to prepare an
9 environmental assessment or an environmental impact
10 statement under the National Environmental Policy Act
11 of 1969 (42 U.S.C. 4321 et seq.) so long as the project
12 or activity is otherwise conducted consistently with agency
13 and departmental procedures and the applicable land and
14 resource management plan or land use plan.

15 **SEC. 8. FOREST SERVICE AND BUREAU OF LAND MANAGE-**
16 **MENT GOOD-NEIGHBOR COOPERATION WITH**
17 **STATES TO REDUCE WILDFIRE RISKS.**

18 (a) DEFINITIONS.—In this section:

19 (1) ELIGIBLE STATE.—The term “eligible
20 State” means a State that contains National Forest
21 System land or land under the jurisdiction of the
22 Bureau of Land Management.

23 (2) SECRETARY.—The term “Secretary”
24 means—

1 (A) the Secretary of Agriculture, with re-
2 spect to National Forest System land; or

3 (B) the Secretary of the Interior, with re-
4 spect to land under the jurisdiction of the Bu-
5 reau of Land Management.

6 (3) STATE FORESTER.—The term “State for-
7 ester” means the head of a State agency with juris-
8 diction over State forestry programs in an eligible
9 State.

10 (b) IN GENERAL.—The Secretary may enter into a
11 cooperative agreement or contract (including a sole source
12 contract) with a State forester to authorize the State for-
13 ester to provide the forest, rangeland, and watershed res-
14 toration and protection services described in subsection (c)
15 on National Forest System land or land under the juris-
16 diction of the Bureau of Land Management, as applicable,
17 in the eligible State.

18 (c) AUTHORIZED SERVICES.—The forest, rangeland,
19 and watershed restoration and protection services referred
20 to in subsection (b) include the conduct of—

21 (1) activities to treat insect infected trees;

22 (2) activities to reduce hazardous fuels; and

23 (3) any other activities to restore or improve
24 forest, rangeland, and watershed health, including
25 fish and wildlife habitat.

1 (d) STATE AS AGENT.—Except as provided in sub-
2 section (g), a cooperative agreement or contract entered
3 into under subsection (b) may authorize the State forester
4 to serve as the agent for the Secretary in providing the
5 restoration and protection services authorized under sub-
6 section (b).

7 (e) SUBCONTRACTS.—In accordance with applicable
8 contract procedures for the eligible State, a State forester
9 may enter into subcontracts to provide the restoration and
10 protection services authorized under a cooperative agree-
11 ment or contract entered into under subsection (b).

12 (f) TIMBER SALES.—Subsections (d) and (g) of sec-
13 tion 14 of the National Forest Management Act of 1976
14 (16 U.S.C. 472a) shall not apply to services performed
15 under a cooperative agreement or contract entered into
16 under subsection (b).

17 (g) RETENTION OF NEPA RESPONSIBILITIES.—Any
18 decision required to be made under the National Environ-
19 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with
20 respect to any restoration and protection services to be
21 provided under this Act by a State forester on National
22 Forest System land or Bureau of Land Management land,
23 as applicable, shall not be delegated to a State forester
24 or any other officer or employee of the eligible State.

1 (h) APPLICABLE LAW.—The restoration and protec-
2 tion services to be provided under this Act shall be carried
3 out on a project-to-project basis under existing authorities
4 of the Forest Service or Bureau of Land Management,
5 as applicable.

6 **SEC. 9. STEWARDSHIP END RESULT CONTRACTING**
7 **PROJECT AUTHORITY.**

8 (a) EXTENSION OF AUTHORITY.—Section 347(a) of
9 the Department of the Interior and Related Agencies Ap-
10 propriations Act, 1999 (as contained in section 101(e) of
11 division A of Public Law 105–277; 16 U.S.C. 2104 note)
12 is amended by striking “2013” and inserting “2017”.

13 (b) DURATION OF CONTRACTS.—Section 347(c)(2) of
14 the Department of the Interior and Related Agencies Ap-
15 propriations Act, 1999 (as contained in section 101(e) of
16 division A of Public Law 105–277; 16 U.S.C. 2104 note)
17 is amended by striking “10 years” and inserting “20
18 years”.

○