To direct the Secretary of Agriculture to take immediate action to recover ecologically and economically from a catastrophic wildfire in the State of Arizona, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 11, 2011

Mr. KYL (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Secretary of Agriculture to take immediate action to recover ecologically and economically from a catastrophic wildfire in the State of Arizona, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Arizona Wallow Fire Recovery and Monitoring Act”.

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of Agriculture to take certain actions—
(1) to rehabilitate and restore the Wallow Fire Area;
(2) to recover material that is fire-damaged, but still merchantable, from the Wallow Fire Area before the material loses economic value;
(3) to create defensible space around communities to effectively and safely fight future fires in the vicinity of the Wallow Fire Area;
(4) to monitor the environmental and economic effects of the removal of fire-damaged trees from the Wallow Fire Area; and
(5) to provide a mechanism to offset the costs of forest restoration in the Wallow Fire Area.

SEC. 3. DEFINITIONS.

In this Act:

(1) Burned area emergency response.—The term “burned area emergency response” means the process used by the Secretary to plan and implement emergency stabilization actions on Federal land in response to an immediate post-fire condition—

(A) to minimize threats to life or property;

or

(B) to stabilize and prevent unacceptable degradation to natural and cultural resources
resulting from the effects of the catastrophic event.

(2) COMMUNITY PROTECTION MANAGEMENT AREA.—The term “Community Protection Management Area” means—

(A) the wildland-urban interface in a community wildfire protection plan;

(B) human development areas having special significance, including critical communication sites, high voltage transmission lines, developed recreation sites, and other structures that, if destroyed by fire, would result in hardship to communities; and

(C) the fuels adjacent to areas described in subparagraph (B).

(3) COMMUNITY WILDFIRE PROTECTION PLAN.—The term “community wildfire protection plan” has the meaning given the term in section 101 of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511).

(4) HAZARD TREE AND COMMERCIAL TIMBER EVALUATION.—The term “hazard tree and commercial timber evaluation” means an evaluation of the hazard trees and fire-damaged, dead, and dying timber resources on the National Forest System land in
the Wallow Fire Area conducted in accordance with
section 4.

(5) INDIAN TRIBE.—The term “Indian tribe”
has the meaning given the term in section 4 of the
Indian Self-Determination and Education Assistance

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

(7) SECRETARY.—The term “Secretary” means
the Secretary of Agriculture.

(8) TIMBER REMOVAL PROJECT.—The term
“timber removal project” means a timber removal
project for the Wallow Fire Area identified under a
hazard tree and commercial timber evaluation.

(9) WALLOW FIRE.—The term “Wallow Fire”
means the fire that originated in the Bear Wallow
Wilderness on May 29, 2011.

(10) WALLOW FIRE AREA.—The term “Wallow
Fire Area” means the approximately 538,000-acre
fire perimeter in the State of Arizona, as depicted on
the map entitled “Wallow Fire Az-ASF-110152 Pro-
gression Map” and dated June 28, 2011.
SEC. 4. HAZARD TREE AND COMMERCIAL TIMBER EVALUATION.

(a) IN GENERAL.—The Secretary shall conduct a hazard tree and commercial timber evaluation that identifies timber resources appropriate for removal within the Wallow Fire Area not later than the date that is the earlier of—

(1) the date that is 30 days after the completion of the burned area emergency response for the Wallow Fire Area; or

(2) the date that is 45 days after the date of containment of the Wallow Fire.

(b) REPORT REQUIRED.—In conducting a hazard tree and commercial timber evaluation under subsection (a), the Secretary shall prepare a report that includes—

(1) a description of—

(A) the forest conditions in the burned areas of the Wallow Fire Area; and

(B) the short- and long-term risks the conditions pose to forest users, communities, private property, and remaining resources;

(2) a map of areas for potential hazard tree removal, areas for potential fire-damaged commercial tree removal, and areas for potential elimination from harvest consideration, including a delineation
of the Community Protection Management Area for
the Wallow Fire Area;

(3) a map of the burn intensity within the Wal-
low Fire Area;

(4) a preliminary determination of—

(A) the anticipated receipts to be derived
from the hazard and fire-damaged commercial
timber identified for removal in the Wallow Fire
Area;

(B) the estimated costs to the Secretary
associated with the removal of the timber; and

(C) to the maximum extent practicable, re-
ceipts likely to be lost if action is not taken in
a timely manner;

(5) a description of 1 or more proposals for
timber removal projects providing for the removal of
hazard trees and fire-damaged, dead, and dying tim-
ber resources in the Wallow Fire Area; and

(6) a description of the desired outcomes of re-
habilitation and tree removal in burned portions of
the Wallow Fire Area.

(c) EXCLUDED AREAS.—In identifying areas for tree
removal under subsection (a), the Secretary shall exclude
high fire-severity burned areas on steep slopes, slopes with
an incline greater than 40 percent, riparian areas, and
• fragile erosive sites, unless tree removal in those areas is
necessary to address public health and safety concerns.

(d) Public Involvement.—The Secretary shall fa-
cilitate the meaningful involvement of State and local offi-
cials, Indian tribes, institutions of higher education, and
other interested persons during the preparation of the haz-
ard tree and commercial timber evaluation conducted
under this section.

(e) Deadline for Completion.—Not later than 45
days after the date on which the Secretary commences the
hazard tree and commercial timber evaluation, the Sec-
etary shall complete the hazard tree and commercial tim-
ber evaluation.

SEC. 5. TIMBER REMOVAL PROJECTS.

(a) Timber Removal Project Requirements.—

(1) In general.—The Secretary shall limit the
removal of trees under a timber removal project
under this Act to hazard trees and trees that are al-
ready down, dead, or severely root-sprung, such that
mortality is highly probable.

(2) Considerations.—In selecting tree re-
moval techniques for a timber removal project under
this Act, the Secretary shall take into account the
degree of ground disturbances, soil types, soil satu-
ration, worker safety, threatened and endangered
species, aquatic systems, and other ecological values associated with the site of the timber removal project.

(3) **Monitoring Requirements.**—The Secretary shall use an effectiveness monitoring framework to assess the ecological and economic effects of tree removal projects carried out under this Act with respect to accomplishing desired outcomes identified in the hazard tree and commercial timber evaluation.

(4) **Limitation.**—Nothing in this Act authorizes new permanent road construction for timber removal.

(5) **Congressional Intent.**—It is the intent of Congress that all timber removal projects carried out under this Act be completed by the date that is not later than 18 months after the date of enactment of this Act.

(b) **Environmental Compliance.**—

(1) **In General.**—Except as otherwise provided in this Act, the Secretary shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws in planning and conducting timber removal projects.

(2) **NEPA Requirements.**—
(A) In general.—In the case of a timber removal project to be conducted in a Community Protection Management Area under this Act, the Secretary shall prepare an environmental assessment for the proposed agency action under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(B) Alternatives.—Nothing in this subsection requires the Secretary to study, develop, or describe any alternative to the proposed agency action in the environmental assessment conducted under subparagraph (A).

(C) Public participation.—The Secretary shall provide an opportunity for public participation during the preparation of the environmental assessment under subparagraph (A), in accordance with existing protocols.

(3) Administrative and judicial review.—Timber removal projects carried out under this Act are subject to the special administrative process and judicial review process under sections 105 and 106 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6515, 6516).
(4) USE OF RECEIPTS.—Amounts collected by the Secretary from a timber removal project carried out under this Act shall be available for expenditure by the Secretary without further appropriation for forest restoration treatments on the Apache-Sitgreaves National Forest in the State of Arizona.