

113TH CONGRESS
1ST SESSION

H. R. 1345

To address the forest health, public safety, and wildlife habitat threat presented by the risk of wildfire, including catastrophic wildfire, on National Forest System lands and public lands managed by the Bureau of Land Management by requiring the Secretary of Agriculture and the Secretary of the Interior to expedite forest management projects relating to hazardous fuels reduction, forest health, and economic development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2013

Mr. GOSAR (for himself, Mr. MATHESON, Mr. AMODEI, Mrs. LUMMIS, Mr. PEARCE, Mr. WALDEN, Mr. SCHWEIKERT, Mr. CRAMER, Mr. FRANKS of Arizona, Mrs. KIRKPATRICK, Mr. MCCLINTOCK, Mr. SALMON, Mr. CONAWAY, and Mr. STEWART) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, 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 forest health, public safety, and wildlife habitat threat presented by the risk of wildfire, including catastrophic wildfire, on National Forest System lands and public lands managed by the Bureau of Land Management by requiring the Secretary of Agriculture and the Secretary of the Interior to expedite forest management projects relating to hazardous fuels reduction, forest health, and economic development, 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 “Catastrophic Wildfire Prevention Act of 2013”.

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

Sec. 1. Short title and table of contents.

Sec. 2. Purposes.

TITLE I—REAUTHORIZING AND EXPANDING AUTHORITIES USED
 FOR HAZARDOUS FUELS REDUCTION, FOREST HEALTH, FOR-
 EST RESTORATION, AND WATERSHED RESTORATION.

Sec. 101. Stewardship end result contracting authority.

Sec. 102. Forest Service and Bureau of Land Management good-neighbor co-
 operation.

Sec. 103. Clarification of Flame Wildfire Suppression Reserve Fund authority.

TITLE II—EXPEDITED PROCESS FOR THE IMPLEMENTATION OF
 WILDFIRE PREVENTION PROJECTS NEAR AT-RISK COMMUNITIES.

Sec. 201. Definitions.

Sec. 202. Eligible wildfire prevention projects.

Sec. 203. Environmental analysis.

Sec. 204. Administrative and judicial review.

8 **SEC. 2. PURPOSES.**

9 The purposes of this Act are as follows:

10 (1) Provide the Secretary of Agriculture and
 11 the Secretary of the Interior the tools to reduce the
 12 potential for wildfires.

13 (2) Expedite wildfire prevention projects to re-
 14 duce the chances of wildfire on certain high-risk
 15 Federal lands.

16 (3) Reduce threats to endangered species from
 17 wildfires.

1 **TITLE I—REAUTHORIZING AND**
2 **EXPANDING AUTHORITIES**
3 **USED FOR HAZARDOUS**
4 **FUELS REDUCTION, FOREST**
5 **HEALTH, FOREST RESTORA-**
6 **TION, AND WATERSHED RES-**
7 **TORATION.**

8 **SEC. 101. STEWARDSHIP END RESULT CONTRACTING AU-**
9 **THORITY.**

10 (a) **EXTENSION OF AUTHORITY.**—Subsection (a) of
11 section 347 of the Department of the Interior and Related
12 Agencies Appropriations Act, 1999 (as contained in sec-
13 tion 101(e) of division A of Public Law 105–277; 16
14 U.S.C. 2104 note), as most recently amended by section
15 323 of Public Law 108–7 (117 Stat. 275), is amended
16 by striking “Until September 30, 2013” and inserting
17 “Until September 30, 2023”.

18 (b) **CONTRACT DURATION.**—Subsection (c)(2) of
19 such section is amended by striking “10 years” and insert-
20 ing “20 years”.

21 (c) **CANCELLATION OR TERMINATION COSTS.**—Sub-
22 section (c) of such section is amended by adding at the
23 end the following new paragraph:

24 “(6) **CANCELLATION OR TERMINATION**
25 **COSTS.**—

1 “(A) IN GENERAL.—Notwithstanding sec-
2 tion 3903 of title 41, United States Code, the
3 Secretary of Agriculture and the Secretary of
4 the Interior are not required to obligate funds
5 to cover the cost of cancelling or terminating a
6 multiyear stewardship contract or agreement
7 until such contract or agreement is cancelled or
8 terminated.

9 “(B) FUNDING SOURCES.—The costs of
10 cancelling or terminating of a multiyear stew-
11 ardship contract or agreement may be paid
12 from—

13 “(i) appropriations originally made
14 available for the performance of the con-
15 tract or agreement;

16 “(ii) appropriations currently available
17 for procurement of the type of service con-
18 cerned, and not otherwise obligated; or

19 “(iii) funds appropriated for payments
20 for that performance or procurement.

21 “(C) ANTI-DEFICIENCY ACT VIOLATIONS.—
22 In a case in which payment or obligation of
23 funds under this paragraph would constitute a
24 violation of section 1341 of title 31, United

1 States Code (commonly known as the Anti-Defi-
2 ciency Act), the Secretary may—

3 “(i) seek a supplemental appropria-
4 tion; or

5 “(ii) request funds from the perma-
6 nent judgment appropriation established
7 pursuant to section 1304 of such title.”.

8 (d) PAYMENTS TO COUNTIES.—Subsection (d) of
9 such section is amended by adding at the end the following
10 new paragraph:

11 “(4) PAYMENTS TO COUNTIES.—25 percent of
12 timber sale receipts from a contract or agreement
13 entered into under the authority of this section and
14 after the date of the enactment of this paragraph
15 shall be paid to the county within whose boundaries
16 the receipts are derived. Payments to a county made
17 under this paragraph shall be in addition to the
18 amounts received under chapter 69 of title 31,
19 United States Code (Payment in Lieu of Taxes; 31
20 U.S.C. 6901 et seq.).”.

21 **SEC. 102. FOREST SERVICE AND BUREAU OF LAND MAN-**
22 **AGEMENT GOOD-NEIGHBOR COOPERATION.**

23 (a) DEFINITIONS.—In this section:

1 (1) ELIGIBLE STATE.—The term “eligible
2 State” means a State that contains National Forest
3 System land or Bureau of Land Management land.

4 (2) FEDERAL LAND.—The term “Federal land”
5 means—

6 (A) land of the National Forest System (as
7 defined in section 11(a) of the Forest and
8 Rangeland Renewable Resources Planning Act
9 of 1974 (16 U.S.C. 1609(a)); or

10 (B) public lands (as defined in section 103
11 of the Federal Land Policy and Management
12 Act of 1976 (43 U.S.C. 1702)).

13 (3) SECRETARY CONCERNED.—The term “Sec-
14 retary concerned” means—

15 (A) the Secretary of Agriculture, in the
16 case of National Forest System land; and

17 (B) the Secretary of the Interior, in the
18 case of public lands administered by the Sec-
19 retary of Interior through the Bureau of Land
20 Management.

21 (4) STATE FORESTER.—The term “State For-
22 ester” means the head of a State agency with juris-
23 diction over State forestry programs in an eligible
24 State.

25 (b) COOPERATIVE AGREEMENTS AND CONTRACTS.—

1 (1) IN GENERAL.—The Secretary concerned
2 may enter into a cooperative agreement or contract
3 (including a sole source contract) with a State For-
4 ester to authorize the State Forester to provide the
5 forest, rangeland, and watershed restoration and
6 protection services described in paragraph (2) on
7 Federal lands administered by the Secretary con-
8 cerned, in the eligible State.

9 (2) AUTHORIZED SERVICES.—The forest,
10 rangeland, and watershed restoration and protection
11 services referred to in paragraph (1) include the con-
12 duct of—

13 (A) activities to treat insect infected trees;

14 (B) activities to reduce hazardous fuels; or

15 (C) any other activities determined by the

16 Secretary concerned to appropriate to restore or

17 improve forest, rangeland, and watershed

18 health, including fish and wildlife habitat.

19 (3) STATE AS AGENT.—Except as provided in

20 paragraph (6), a cooperative agreement or contract

21 entered into under paragraph (1) may authorize the

22 State Forester to serve as the agent for the Sec-

23 retary concerned in providing the restoration and

24 protection services authorized under that paragraph.

1 (4) SUBCONTRACTS.—In accordance with appli-
2 cable contract procedures for the eligible State, a
3 State Forester may enter into subcontracts to pro-
4 vide the restoration and protection services author-
5 ized under a cooperative agreement or contract en-
6 tered into under paragraph (1).

7 (5) TIMBER SALES.—Subsections (d) and (g) of
8 section 14 of the National Forest Management Act
9 of 1976 (16 U.S.C. 472a) shall not apply to services
10 performed under a cooperative agreement or con-
11 tract entered into under paragraph (1).

12 (6) RETENTION OF NEPA RESPONSIBILITIES.—
13 Any decision required to be made under the Na-
14 tional Environmental Policy Act of 1969 (42 U.S.C.
15 4321 et seq.) with respect to any restoration and
16 protection services to be provided under this section
17 by a State Forester on Federal land, shall not be
18 delegated to a State Forester or any other officer or
19 employee of the eligible State.

20 (c) APPLICABLE LAW.—The restoration and protec-
21 tion services to be provided under this section shall be car-
22 ried out on a project-to-project basis under existing appli-
23 cable authorities of the Forest Service and the Bureau of
24 Land Management.

1 (d) TERMINATION OF EFFECTIVENESS.—The au-
2 thority of the Secretary concerned to enter into coopera-
3 tive agreements and contracts under this Act terminates
4 on September 30, 2023.

5 (e) DURATION OF CONTRACTS.—A cooperative agree-
6 ment or contract entered into under this Act shall not ex-
7 tend beyond 20 years.

8 **SEC. 103. CLARIFICATION OF FLAME WILDFIRE SUPPRES-**
9 **SION RESERVE FUND AUTHORITY.**

10 (a) CLARIFICATION.—Section 502(c) of the Federal
11 Land Assistance, Management, and Enhancement Act of
12 2009 (43 U.S.C. 1748a(c)) is amended by inserting “and
13 burn area responses, including flood prevention,” after
14 “events”.

15 **TITLE II—EXPEDITED PROCESS**
16 **FOR THE IMPLEMENTATION**
17 **OF WILDFIRE PREVENTION**
18 **PROJECTS NEAR AT-RISK**
19 **COMMUNITIES.**

20 **SEC. 201. DEFINITIONS.**

21 In this title:

22 (1) AT-RISK COMMUNITY.—The term “at-risk
23 community” has the meaning given that term in sec-
24 tion 101 of the Healthy Forests Restoration Act of
25 2003 (16 U.S.C. 6511).

1 (2) AT-RISK FOREST.—The term “at-risk for-
2 est” means—

3 (A) Federal land in condition class II or
4 III, as those classes were developed by the For-
5 est Service Rocky Mountain Research Station
6 in the general technical report titled “Develop-
7 ment of Coarse-Scale Spatial Data for Wildland
8 Fire and Fuel Management” (RMRS–87) and
9 dated April 2000 or any subsequent revision of
10 the report; or

11 (B) Federal land where there exists a high
12 risk of losing an at-risk community, key eco-
13 system, water supply, wildlife, or wildlife habi-
14 tat to wildfire, including catastrophic wildfire
15 and post-fire disturbances, as designated by the
16 Secretary concerned.

17 (3) FEDERAL LAND.—

18 (A) COVERED LAND.—The term “Federal
19 land” means—

20 (i) land of the National Forest System
21 (as defined in section 11(a) of the Forest
22 and Rangeland Renewable Resources Plan-
23 ning Act of 1974 (16 U.S.C. 1609(a))); or

1 (ii) public lands (as defined in section
2 103 of the Federal Land Policy and Man-
3 agement Act of 1976 (43 U.S.C. 1702)).

4 (B) EXCLUDED LAND.—The term does not
5 include land in which the removal of vegetation
6 is specifically prohibited by Federal law unless
7 the land is in an inventoried roadless area or
8 Wilderness Study Areas (WSAs).

9 (4) SECRETARY CONCERNED.—The term “Sec-
10 retary concerned” means—

11 (A) the Secretary of Agriculture, in the
12 case of National Forest System land; and

13 (B) the Secretary of the Interior, in the
14 case of public lands administered by the Sec-
15 retary of Interior through the Bureau of Land
16 Management.

17 (5) THREATENED AND ENDANGERED SPECIES
18 HABITAT.—The term threatened and endangered
19 species habitat means Federal land where natural
20 fire regimes are identified as being important for, or
21 unnatural wildfire is identified as a threat to, an en-
22 dangered species, a threatened species, or habitat of
23 an endangered species or threatened species.

24 (6) ELIGIBLE WILDFIRE PREVENTION
25 PROJECT.—The term “eligible wildfire prevention

1 project” means the measures and methods developed
2 for a project to be carried out on Federal land or
3 on threatened and endangered species habitat by the
4 Secretary concerned for hazardous fuels reduction,
5 forest health, forest restoration, watershed restora-
6 tion, or threatened and endangered species habitat
7 protection using ecological restoration principles con-
8 sistent with the forest type where such project will
9 occur.

10 **SEC. 202. ELIGIBLE WILDFIRE PREVENTION PROJECTS.**

11 (a) IMPLEMENTATION.—As soon as practicable after
12 the date of the enactment of this Act, the Secretary con-
13 cerned shall implement eligible wildfire prevention projects
14 in at-risk forests and on threatened and endangered spe-
15 cies habitat in a manner that focuses on surface, ladder,
16 and canopy fuels reduction activities using ecological res-
17 toration principles consistent with the forest type in the
18 location where such project will occur.

19 (b) PROJECT ELEMENTS.—

20 (1) THREATENED AND ENDANGERED SPECIES
21 HABITAT.—Wildfire prevention projects carried out
22 on threatened and endangered species habitat shall
23 be carried out to provide enhanced protection from
24 wildfire, including unnatural wildfire, for the endan-

1 gered species, threatened species, or habitat of the
2 endangered species or threatened species.

3 (2) AT-RISK FORESTS.—In the case of an eligi-
4 ble wildfire prevention project carried out in an at-
5 risk forest, the project shall be carried out to move
6 Federal land in condition class II or III toward con-
7 dition class I, using ecological restoration principles
8 consistent with the forest type in the location where
9 such project will occur.

10 (c) AUTHORIZED PRACTICES.—

11 (1) IN GENERAL.—An eligible wildfire preven-
12 tion project may include livestock grazing and tim-
13 ber harvest projects carried out for the purposes of
14 hazardous fuels reduction, forest health, forest res-
15 toration, watershed restoration, or threatened and
16 endangered species habitat protection or improve-
17 ment, if the management action is consistent with
18 achieving long-term ecological restoration of the for-
19 est type in the location where such project will
20 occur.

21 (2) GRAZING.—Domestic livestock grazing may
22 be used in an eligible wildfire prevention project to
23 reduce surface fuel loads and to recover burned
24 areas. Utilization standards shall not apply when do-

1 mestic livestock grazing is used in an eligible wildfire
2 prevention project.

3 (3) **TIMBER HARVESTING AND THINNING.**—

4 Timber harvesting and thinning, where the ecologi-
5 cal restoration principles are consistent with the for-
6 est type in the location where such project will
7 occur, may be used in an eligible wildfire prevention
8 project to reduce ladder and canopy fuel loads to
9 prevent unnatural fire.

10 (d) **RELATION TO LAND AND RESOURCE MANAGE-**
11 **MENT PLANS AND LAND USE PLAN.**—Nothing in this sec-
12 tion requires the Secretary concerned, as a condition of
13 conducting an eligible wildfire prevention project, to revise
14 or amend the land and resource management plan applica-
15 ble to the National Forest System lands or the land use
16 plan applicable to the public lands on which the project
17 will be conducted.

18 **SEC. 203. ENVIRONMENTAL ANALYSIS.**

19 (a) **ANALYSIS OF PROPOSED ACTION AND NO AC-**
20 **TION ALTERNATIVE.**—

21 (1) **ENVIRONMENTAL ASSESSMENT OR ENVI-**
22 **RONMENTAL IMPACT STATEMENT REQUIRED.**—For
23 each proposed eligible wildfire prevention project, the
24 Secretary concerned shall—

1 (A) study, develop, and describe the pro-
2 posed action and the no action alternative; and

3 (B) prepare an environmental assessment
4 or an environmental impact statement pursuant
5 to section 102(2) of the National Environ-
6 mental Policy Act of 1969 (42 U.S.C. 4332(2)).

7 (2) NO REQUIREMENT FOR ALTERNATIVE AC-
8 TION STUDY.—Except as provided in subsection (b),
9 the Secretary concerned is not required to study, de-
10 velop, or describe any alternative actions, other than
11 the no action alternative, to the proposed agency ac-
12 tion.

13 (3) DEADLINES FOR COMPLETION.—

14 (A) ENVIRONMENTAL ASSESSMENT DEAD-
15 LINE.—An environmental assessment prepared
16 for a proposed eligible wildfire prevention
17 project shall be completed within 60 days of the
18 commencement of preparation of the assess-
19 ment.

20 (B) ENVIRONMENTAL IMPACT STATEMENT
21 DEADLINE.—An environmental impact state-
22 ment prepared for a proposed eligible wildfire
23 prevention project shall be completed within 90
24 days of the commencement of preparation of
25 the environmental impact statement.

1 (C) EFFECT OF FAILURE TO MEET DEAD-
2 LINE.—The proposed eligible wildfire prevention
3 project shall be deemed compliant with all re-
4 quirements of the National Environmental Pol-
5 icy Act of 1969 if the Secretary concerned fails
6 to meet the specified deadline.

7 (4) ENVIRONMENTAL ANALYSIS DURATION.—
8 The environmental assessment of an authorized
9 practice utilized in an eligible wildfire prevention
10 project shall be deemed sufficient for a minimum
11 of—

12 (A) 10 years in the case of a livestock
13 grazing project; or

14 (B) 20 years in the case of a timber har-
15 vest project.

16 (b) CATEGORICAL EXCLUSION.—If an eligible wild-
17 fire prevention project, located in a at-risk area, involves
18 the removal of insect-infected trees or other hazardous
19 fuels within 500 feet of utility or communications infra-
20 structure, campgrounds, roadsides, heritage sites, recre-
21 ation sites, schools, or other infrastructure, that project
22 is categorically excluded from the requirement to prepare
23 an environmental assessment or an environmental impact
24 statement under the National Environmental Policy Act
25 of 1969 (42 U.S.C. 4321 et seq.) if the project will other-

1 wise be conducted consistent with the relevant agency or
2 department's procedures and the applicable land and re-
3 source management plan or land use plan.

4 (c) ENVIRONMENTAL ANALYSIS GENERALLY.—Ex-
5 cept as otherwise provided in this Act, the Secretary con-
6 cerned shall comply with the National Environmental Pol-
7 icy Act of 1969 (42 U.S.C. 4321 et seq.) and other appli-
8 cable laws in planning and conducting an eligible wildfire
9 prevention project.

10 (d) INTERAGENCY COOPERATION.—The informal
11 consultation requirements of the Endangered Species Act
12 of 1973 (16 U.S.C. 1531 et seq.), as codified in section
13 402.05 of title 50, Code of Federal Regulations shall apply
14 to an eligible wildfire prevention project.

15 (e) EFFECT OF COMPLIANCE.—Compliance with this
16 section shall be deemed to satisfy the requirements of the
17 National Environmental Policy Act of 1969 (42 U.S.C.
18 4331 et seq.), section 14 of the National Forest Manage-
19 ment Act of 1976 (16 U.S.C. 472a), the Endangered Spe-
20 cies Act of 1973 (16 U.S.C. 1531 et seq.), and the Mul-
21 tiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et
22 seq.).

23 (f) EFFECT OF A WILDFIRE EMERGENCY.—

24 (1) COUNCIL ON ENVIRONMENTAL QUALITY.—

25 The Secretary concerned, pursuant to section

1 1506.11 of title 40, Code of Federal Regulations,
2 shall request the Council on Environmental Quality
3 to develop and approve alternative arrangements for
4 the proposed wildfire prevention project if—

5 (A) the county in which the proposed eligi-
6 ble wildfire prevention project is to be carried
7 out declares a state of emergency because of
8 wildfire or the threat of wildfire in consultation
9 with the State Forester or equivalent State offi-
10 cial of the State containing the county; and

11 (B) a categorical exclusion is unavailable
12 for a proposed eligible wildfire prevention
13 project.

14 (2) MANDATORY INFORMATION.—When re-
15 questing alternative arrangements under paragraph
16 (1), the Secretary concerned shall transmit to the
17 Council on Environmental Quality the following in-
18 formation:

19 (A) A description of the proposed eligible
20 project.

21 (B) The condition of forest fuels within or
22 near the proposed eligible wildfire prevention
23 project.

24 (C) The threat to public safety, welfare, in-
25 frastructure, watersheds, wildlife habitat, or

1 other vital assets due to the accumulation of
2 forest fuels and the associated risk of extreme
3 fire that the proposed eligible project is to re-
4 lieve.

5 (D) The degree to which delaying the im-
6 plementation of the proposed eligible project
7 will increase the risk of serious harm to public
8 safety, welfare, infrastructure, watersheds, wild-
9 life habitat, or other vital assets due to the ac-
10 cumulation of forest fuels and the associated
11 risk of extreme fire.

12 (E) Any other information the Secretary
13 concerned determines relevant.

14 (3) DEADLINE FOR ALTERNATIVE ARRANGE-
15 MENTS.—

16 (A) DEADLINE.—Not later than 15 days
17 after receipt of a request under paragraph (1)
18 for approval of alternative arrangements for a
19 proposed eligible wildfire prevention project, the
20 Council on Environmental Quality shall submit
21 to the Secretary concerned the alternative ar-
22 rangements under which the Secretary may
23 proceed immediately and to completion of the
24 proposed wildfire prevention project.

1 (B) FAILURE TO COMPLY.—If the Council
2 on Environmental Quality fails to comply with
3 the deadline in subparagraph (A), the Secretary
4 concerned shall proceed immediately and to
5 completion of the proposed eligible wildfire pre-
6 vention project notwithstanding any other pro-
7 vision of law, including the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et
9 seq.) and the National Forest Management Act
10 (16 U.S.C. 1601 et seq.).

11 (4) ADMINISTRATIVE AND JUDICIAL REVIEW.—
12 Actions under this subsection shall not be subject
13 to—

14 (A) the notice, comment, and appeal re-
15 quirements of section 322 of Public Law 102–
16 381 (the Appeals Reform Act; 16 U.S.C. 1612
17 note); and

18 (B) judicial review by any court of the
19 United States.

20 **SEC. 204. ADMINISTRATIVE AND JUDICIAL REVIEW.**

21 (a) ADMINISTRATIVE REVIEW.—Administrative re-
22 view of an eligible wildfire prevention project shall occur
23 in accordance with the special administrative review pro-
24 cess established under section 105 of the Healthy Forests
25 Restoration Act of 2003 (16 U.S.C. 6515).

1 (b) JUDICIAL REVIEW.—Judicial review of an eligible
2 wildfire prevention project shall occur in accordance with
3 section 106 of the Healthy Forests Restoration Act of
4 2003 (16 U.S.C. 6516).

○