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. MCCINTOCK, 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.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the
“Catastrophic Wildfire Prevention Act of 2013”.

(b) TABLE OF CONTENTS.—The table of contents of
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.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

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

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

(3) Reduce threats to endangered species from
wildfires.
TITLE I—REAUTHORIZING AND EXPANDING AUTHORITIES USED FOR HAZARDOUS FUELS REDUCTION, FOREST HEALTH, FOREST RESTORATION, AND WATERSHED RESTORATION.

SEC. 101. STEWARDSHIP END RESULT CONTRACTING AUTHORITY.

(a) Extension of Authority.—Subsection (a) of section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (as contained in section 101(e) of division A of Public Law 105–277; 16 U.S.C. 2104 note), as most recently amended by section 323 of Public Law 108–7 (117 Stat. 275), is amended by striking “Until September 30, 2013” and inserting “Until September 30, 2023”.

(b) Contract Duration.—Subsection (c)(2) of such section is amended by striking “10 years” and inserting “20 years”.

(c) Cancellation or Termination Costs.—Subsection (e) of such section is amended by adding at the end the following new paragraph:

“(6) Cancellation or Termination Costs.—
“(A) IN GENERAL.—Notwithstanding section 3903 of title 41, United States Code, the Secretary of Agriculture and the Secretary of the Interior are not required to obligate funds to cover the cost of cancelling or terminating a multiyear stewardship contract or agreement until such contract or agreement is cancelled or terminated.

“(B) FUNDING SOURCES.—The costs of cancelling or terminating of a multiyear stewardship contract or agreement may be paid from—

“(i) appropriations originally made available for the performance of the contract or agreement;

“(ii) appropriations currently available for procurement of the type of service concerned, and not otherwise obligated; or

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

“(C) ANTI-DEFICIENCY ACT VIOLATIONS.—In a case in which payment or obligation of funds under this paragraph would constitute a violation of section 1341 of title 31, United
States Code (commonly known as the Anti-Deficiency Act), the Secretary may—

“(i) seek a supplemental appropriation; or

“(ii) request funds from the permanent judgment appropriation established pursuant to section 1304 of such title.”.

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

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

SEC. 102. FOREST SERVICE AND BUREAU OF LAND MANAGEMENT GOOD-NEIGHBOR COOPERATION.

(a) DEFINITIONS.—In this section:
(1) **Eligible State.**—The term “eligible State” means a State that contains National Forest System land or Bureau of Land Management land.

(2) **Federal land.**—The term “Federal land” means—

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

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

(3) **Secretary concerned.**—The term “Secretary concerned” means—

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

(B) the Secretary of the Interior, in the case of public lands administered by the Secretary of Interior through the Bureau of Land Management.

(4) **State forester.**—The term “State forester” means the head of a State agency with jurisdiction over State forestry programs in an eligible State.

(b) **Cooperative Agreements and Contracts.**—
(1) IN GENERAL.—The Secretary concerned may enter into a cooperative agreement or contract (including a sole source contract) with a State Forester to authorize the State Forester to provide the forest, rangeland, and watershed restoration and protection services described in paragraph (2) on Federal lands administered by the Secretary concerned, in the eligible State.

(2) AUTHORIZED SERVICES.—The forest, rangeland, and watershed restoration and protection services referred to in paragraph (1) include the conduct of—

(A) activities to treat insect infected trees;

(B) activities to reduce hazardous fuels; or

(C) any other activities determined by the Secretary concerned to appropriate to restore or improve forest, rangeland, and watershed health, including fish and wildlife habitat.

(3) STATE AS AGENT.—Except as provided in paragraph (6), a cooperative agreement or contract entered into under paragraph (1) may authorize the State Forester to serve as the agent for the Secretary concerned in providing the restoration and protection services authorized under that paragraph.
(4) SUBCONTRACTS.—In accordance with applicable contract procedures for the eligible State, a State Forester may enter into subcontracts to provide the restoration and protection services authorized under a cooperative agreement or contract entered into under paragraph (1).

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

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

(e) APPLICABLE LAW.—The restoration and protection services to be provided under this section shall be carried out on a project-to-project basis under existing applicable authorities of the Forest Service and the Bureau of Land Management.
(d) Termination of Effectiveness.—The authority of the Secretary concerned to enter into cooperative agreements and contracts under this Act terminates on September 30, 2023.

(e) Duration of Contracts.—A cooperative agreement or contract entered into under this Act shall not extend beyond 20 years.

SEC. 103. CLARIFICATION OF FLAME WILDFIRE SUPPRESSION RESERVE FUND AUTHORITY.

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

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

SEC. 201. DEFINITIONS.

In this title:

(1) At-risk Community.—The term “at-risk community” has the meaning given that term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).
(2) **At-risk forest.**—The term “at-risk forest” means—

(A) Federal land in condition class II or III, as those classes were developed by the Forest Service Rocky Mountain Research Station in the general technical report titled “Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management” (RMRS–87) and dated April 2000 or any subsequent revision of the report; or

(B) Federal land where there exists a high risk of losing an at-risk community, key ecosystem, water supply, wildlife, or wildlife habitat to wildfire, including catastrophic wildfire and post-fire disturbances, as designated by the Secretary concerned.

(3) **Federal land.**—

(A) **Covered land.**—The term “Federal land” means—

(i) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))); or
(ii) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

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

(4) SECRETARY CONCERNED.—The term “Secretary concerned” means—

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

(B) the Secretary of the Interior, in the case of public lands administered by the Secretary of Interior through the Bureau of Land Management.

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

(6) ELIGIBLE WILDFIRE PREVENTION PROJECT.—The term “eligible wildfire prevention
project” means the measures and methods developed for a project to be carried out on Federal land or on threatened and endangered species habitat by the Secretary concerned for hazardous fuels reduction, forest health, forest restoration, watershed restoration, or threatened and endangered species habitat protection using ecological restoration principles consistent with the forest type where such project will occur.

SEC. 202. ELIGIBLE WILDFIRE PREVENTION PROJECTS.

(a) IMPLEMENTATION.—As soon as practicable after the date of the enactment of this Act, the Secretary concerned shall implement eligible wildfire prevention projects in at-risk forests and on threatened and endangered species habitat in a manner that focuses on surface, ladder, and canopy fuels reduction activities using ecological restoration principles consistent with the forest type in the location where such project will occur.

(b) PROJECT ELEMENTS.—

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

(2) At-risk forests.—In the case of an eligible wildfire prevention project carried out in an at-risk forest, the project shall be carried out to move Federal land in condition class II or III toward condition class I, using ecological restoration principles consistent with the forest type in the location where such project will occur.

(c) Authorized Practices.—

(1) In general.—An eligible wildfire prevention project may include livestock grazing and timber harvest projects carried out for the purposes of hazardous fuels reduction, forest health, forest restoration, watershed restoration, or threatened and endangered species habitat protection or improvement, if the management action is consistent with achieving long-term ecological restoration of the forest type in the location where such project will occur.

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

(3) **Timber Harvesting and Thinning.**—
Timber harvesting and thinning, where the ecological restoration principles are consistent with the forest type in the location where such project will occur, may be used in an eligible wildfire prevention project to reduce ladder and canopy fuel loads to prevent unnatural fire.

(d) **Relation to Land and Resource Management Plans and Land Use Plan.**—Nothing in this section requires the Secretary concerned, as a condition of conducting an eligible wildfire prevention project, to revise or amend the land and resource management plan applicable to the National Forest System lands or the land use plan applicable to the public lands on which the project will be conducted.

**SEC. 203. ENVIRONMENTAL ANALYSIS.**

(a) **Analysis of Proposed Action and No Action Alternative.**—

(1) **Environmental Assessment or Environmental Impact Statement Required.**—For each proposed eligible wildfire prevention project, the Secretary concerned shall—
(A) study, develop, and describe the proposed action and the no action alternative; and

(B) prepare an environmental assessment or an environmental impact statement pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(2) NO REQUIREMENT FOR ALTERNATIVE ACTION STUDY.—Except as provided in subsection (b), the Secretary concerned is not required to study, develop, or describe any alternative actions, other than the no action alternative, to the proposed agency action.

(3) DEADLINES FOR COMPLETION.—

(A) ENVIRONMENTAL ASSESSMENT DEADLINE.—An environmental assessment prepared for a proposed eligible wildfire prevention project shall be completed within 60 days of the commencement of preparation of the assessment.

(B) ENVIRONMENTAL IMPACT STATEMENT DEADLINE.—An environmental impact statement prepared for a proposed eligible wildfire prevention project shall be completed within 90 days of the commencement of preparation of the environmental impact statement.
(C) Effect of failure to meet deadline.—The proposed eligible wildfire prevention project shall be deemed compliant with all requirements of the National Environmental Policy Act of 1969 if the Secretary concerned fails to meet the specified deadline.

(4) Environmental analysis duration.—The environmental assessment of an authorized practice utilized in an eligible wildfire prevention project shall be deemed sufficient for a minimum of—

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

(B) 20 years in the case of a timber harvest project.

(b) Categorical Exclusion.—If an eligible wildfire prevention project, located in a at-risk area, involves the removal of insect-infected trees or other hazardous fuels within 500 feet of utility or communications infrastructure, campgrounds, roadsides, heritage sites, recreation sites, schools, or other infrastructure, that project is categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the project will other-
wise be conducted consistent with the relevant agency or
department’s procedures and the applicable land and re-
source management plan or land use plan.

(c) Environmental Analysis Generally.—Except as otherwise provided in this Act, the Secretary con-
cerned shall comply with the National Environmental Pol-
icy Act of 1969 (42 U.S.C. 4321 et seq.) and other appli-
cable laws in planning and conducting an eligible wildfire
prevention project.

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

(e) Effect of Compliance.—Compliance with this
section shall be deemed to satisfy the requirements of the
National Environmental Policy Act of 1969 (42 U.S.C.
4331 et seq.), section 14 of the National Forest Manage-
ment Act of 1976 (16 U.S.C. 472a), the Endangered Spe-
cies Act of 1973 (16 U.S.C. 1531 et seq.), and the Mul-
seq.).

(f) Effect of a Wildfire Emergency.—
(1) Council on Environmental Quality.—
The Secretary concerned, pursuant to section
1506.11 of title 40, Code of Federal Regulations, shall request the Council on Environmental Quality to develop and approve alternative arrangements for the proposed wildfire prevention project if—

(A) the county in which the proposed eligible wildfire prevention project is to be carried out declares a state of emergency because of wildfire or the threat of wildfire in consultation with the State Forester or equivalent State official of the State containing the county; and

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

(2) **Mandatory Information.**—When requesting alternative arrangements under paragraph (1), the Secretary concerned shall transmit to the Council on Environmental Quality the following information:

(A) A description of the proposed eligible project.

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

(C) The threat to public safety, welfare, infrastructure, watersheds, wildlife habitat, or
other vital assets due to the accumulation of forest fuels and the associated risk of extreme fire that the proposed eligible project is to relieve.

(D) The degree to which delaying the implementation of the proposed eligible project will increase the risk of serious harm to public safety, welfare, infrastructure, watersheds, wildlife habitat, or other vital assets due to the accumulation of forest fuels and the associated risk of extreme fire.

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

(3) DEADLINE FOR ALTERNATIVE ARRANGEMENTS.—

(A) DEADLINE.—Not later than 15 days after receipt of a request under paragraph (1) for approval of alternative arrangements for a proposed eligible wildfire prevention project, the Council on Environmental Quality shall submit to the Secretary concerned the alternative arrangements under which the Secretary may proceed immediately and to completion of the proposed wildfire prevention project.
(B) Failure to Comply.—If the Council on Environmental Quality fails to comply with the deadline in subparagraph (A), the Secretary concerned shall proceed immediately and to completion of the proposed eligible wildfire prevention project notwithstanding any other provision of law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the National Forest Management Act (16 U.S.C. 1601 et seq.).

(4) Administrative and Judicial Review.—Actions under this subsection shall not be subject to—

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

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

SEC. 204. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Administrative Review.—Administrative review of an eligible wildfire prevention project shall occur in accordance with the special administrative review process established under section 105 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6515).