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. McCINTOCK, Mr. GOSAR, Mr. AMODEI, Mr. YOUNG of Alaska, Mr. LABRAJOR, 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.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Healthy Forest Management and Wildfire Prevention Act”.

(b) Table of Contents.—The table of contents for 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.

SEC. 2. DEFINITIONS.

In this Act:

(1) Emergency hazardous fuels reduction project.—The term “emergency hazardous fuels reduction project” means a project or activity carried out in a high-risk area to address the bark beetle epidemic, drought, or deteriorating forest
health conditions and the resulting imminent risk of devastating wildfires.

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

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

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

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

(A) the Secretary of Agriculture, with respect to the National Forest System; and

(B) the Secretary of the Interior, with respect to public lands.
(6) The term “State” means any of the several States containing National Forest System land or public lands. The term includes the Commonwealth of Puerto Rico.

SEC. 3. CONGRESSIONAL DECLARATION OF BARK BEETLE EPIDEMIC, DROUGHT, DETERIORATING FOREST HEALTH CONDITIONS, AND HIGH RISK OF WILDFIRES IN STATES AS IMMINENT THREAT.

Congress hereby declares that the bark beetle epidemic, drought, and deteriorating forest health conditions on National Forest System land and public lands in the States, with the resulting imminent risk of devastating wildfires that pose a significant threat to the economic stability of communities in the affected areas and the health, safety, and well-being of residents, firefighters, and visitors to the areas, is an “imminent threat” within the meaning of section 294.12(b)(1) of title 36, Code of Federal Regulations (2002 Edition) and any existing or pending roadless area management rule applicable to a State.

SEC. 4. STATE DESIGNATION OF HIGH-RISK AREAS OF NATIONAL FOREST SYSTEM AND PUBLIC LANDS.

(a) Designation Authority.—The Governor of a State may designate high-risk areas of the National For-
est System and public lands in the State for the purposes
of addressing—

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

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

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

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

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

(2) A National Monument.

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

(c) Time for Initial Designations.—The first high-risk areas should be designated not later than 60 days after the date of the enactment of this Act but may be designated at any time consistent with subsection (a).

(f) Duration of Designation.—The designation of a high-risk area in a State shall expire 20 years after the date of the designation, unless earlier terminated by the Governor of the State.

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

(h) Recognition of Valid and Existing Rights.—The designation of a high-risk area shall not be construed to limit or restrict—

(1) access to National Forest System land or public lands included in the area for hunting, fishing, and other related purposes; or

(2) valid and existing rights regarding the National Forest System land or public lands.
SEC. 5. DESIGNATION OF HIGH-RISK AREAS BY THE SECRETARY CONCERNED.

(a) Designation Authority.—The Secretary concerned may designate high-risk areas of the National Forest System and the public lands for the purposes of addressing—

(1) deteriorating forest health conditions in existence as of the date of the enactment of this Act due to the bark beetle epidemic or drought, with the resulting imminent risk of devastating wildfires; and

(2) the future risk of insect infestations or disease outbreaks through preventative treatments to improve forest health conditions.

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

(c) Exclusion of Certain Areas.—The following National Forest System land or public lands may not be designated as a high-risk area:

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

(2) A National Monument.

(d) Standards for Designation.—Designation of high risk areas shall be consistent with standards and guidelines contained in the land and resource management
plan or land use plan for the unit of the National Forest
System or public lands for which the designation is being
made, except that the Secretary concerned may modify
such standards and guidelines to correspond with a spe-
cific high-risk area designation.

(e) **Time for Initial Designations.**—The first
high-risk areas should be designated not later than 60
days after the date of the enactment of this Act but may
be designated at any time consistent with subsection (a).

(f) **Duration of Designation.**—The designation of
a high-risk area in a State shall expire 20 years after the
date of the designation, unless earlier terminated by the
Secretary concerned.

(g) **Redesignation.**—The expiration of the 20-year
period specified in subsection (f) does not prohibit the Sec-
retary concerned from redesignating an area of the Na-
tional Forest System or public lands as a high-risk area
if the Secretary determines that the National Forest Sys-
tem land or public lands continues to be subject to the
terms of this section, except that such redesignation is
subject to consultation with Governors from affected
States, county government from affected counties, and af-
affected Indian tribes.
(h) **Recognition of Valid and Existing Rights.**—The designation of a high-risk area shall not be construed to limit or restrict—

1. access to National Forest System land or public lands included in the area for hunting, fishing, and other related purposes; or
2. valid and existing rights regarding the National Forest System land or public lands.

### SEC. 6. USE OF EMERGENCY HAZARDOUS FUELS REDUCTION PROJECTS FOR HIGH-RISK AREAS.

(a) **Project Proposals.**—

1. **Proposals Authorized.**—Upon designation of a high-risk area in a State, the Governor of the State may provide for the development of proposed emergency hazardous fuels reduction projects for the high-risk area. The Secretary concerned also may develop emergency hazardous fuels reduction projects.

2. **Project Criteria.**—In preparing proposed emergency hazardous fuels reduction projects, the Governor of a State and the Secretary concerned shall—
   
   (A) take into account managing for rights of way, protection of watersheds, protection of wildlife and endangered species habitat, safe-
guarding water resources, and protecting local communities from wildfires; and

(B) emphasize activities that thin the forest to provide the greatest health and longevity of the forest.

(b) Consultation.—In preparing proposed emergency hazardous fuels reduction projects, the Governor of a State shall consult with county government from affected counties, and with affected Indian tribes. If the Secretary concerned develops a proposal, the Secretary concerned shall consult with the Governor of the affected State, county government from affected counties, and affected Indian tribes.

(c) Submission and Implementation.—The Governor of a State shall submit proposed emergency hazardous fuels reduction projects to the Secretary concerned for implementation.

(d) Implementation of Projects.—

(1) State proposed projects.—The Secretary concerned shall implement hazardous fuels reduction projects proposed by Governors within 60 days of the date on which the Secretary receives the proposal.

(2) Secretary proposed projects.—The Secretary concerned shall implement hazardous fuels
reduction projects proposed by the Secretary concerned within 60 days of the date on which the proposal is finalized.

SEC. 7. APPLICABILITY OF EXPEDITED PROCEDURES AND AUTHORITIES OF HEALTHY FORESTS RESTORATION ACT OF 2003 TO EMERGENCY HAZARDOUS FUELS REDUCTION PROJECTS.

(a) Applicability.—Subject to subsections (b) through (e), title I of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511 et seq.) (including the environmental analysis requirements of section 104 of that Act (16 U.S.C. 6514), the special administrative review process under section 105 of that Act (16 U.S.C. 6515), and the judicial review process under section 106 of that Act (16 U.S.C. 6516)), shall apply to all emergency hazardous fuels reduction projects developed under section 6.

(b) Application of Other Law.—Section 322 of Public Law 102–381 (16 U.S.C. 1612 note; 106 Stat. 1419) shall not apply to Forest Service emergency hazardous fuels reduction projects.

(c) Required Modifications.—In applying title I of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511 et seq.) to emergency hazardous fuels reduction projects, the Secretary concerned shall make the following modifications:
(1) The authority shall apply to the entire high-risk area, including land that is outside of a wildland-urban interface area or that does not satisfy any of the other eligibility criteria specified in section 102(a) of that Act (16 U.S.C. 6512(a)).

(2) All projects and activities of the Secretary concerned, including necessary connected actions (as described in section 1508.25(a)(1) of title 40, Code of Federal Regulations), of the emergency hazardous fuels reduction project shall be deemed to be an authorized hazardous fuel reduction project for purposes of applying the title.

(3) The Secretary is not required to study, develop, or describe more than the proposed agency action and a no-action alternative in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for an emergency hazardous fuels reduction project, except that, if an at-risk community has adopted a community wildfire protection plan (as defined in section 101(3) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511(3))) that includes the land covered by the proposed agency action, but the proposed agency action does not imple-
ment the recommendations in the plan regarding the
general location and basic method of treatments, the
Secretary shall evaluate the recommendations in the
plan as an additional alternative to the proposed
agency action.

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

(e) RETENTION OF NEPA RESPONSIBILITIES.—Any
decision required to be made under the National Environ-
mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with
respect to any project or activity to be carried out as part
of an emergency hazardous fuels reduction project in a
high-risk area shall not be delegated to a State forester
or any other officer or employee of the State in which the
emergency hazardous fuels reduction project will be car-
ried out.
(f) CATEGORICAL EXCLUSION.—If a project or activity to be carried out as part of an emergency hazardous fuels reduction project in a high-risk area involves the removal of insect-infected trees or other hazardous fuels within 500 feet of utility or telephone infrastructure, campgrounds, roadsides, heritage sites, recreation sites, schools, or other infrastructure, the project or activity 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.) so long as the project or activity is otherwise conducted consistently with agency and departmental procedures and the applicable land and resource management plan or land use plan.

SEC. 8. FOREST SERVICE AND BUREAU OF LAND MANAGEMENT GOOD-NEIGHBOR COOPERATION WITH STATES TO REDUCE WILDFIRE RISKS.

(a) DEFINITIONS.—In this section:

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

(2) SECRETARY.—The term “Secretary” means—
(A) the Secretary of Agriculture, with respect to National Forest System land; or

(B) the Secretary of the Interior, with respect to land under the jurisdiction of the Bureau of Land Management.

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

(b) IN GENERAL.—The Secretary 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 subsection (c) on National Forest System land or land under the jurisdiction of the Bureau of Land Management, as applicable, in the eligible State.

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

(1) activities to treat insect infected trees;

(2) activities to reduce hazardous fuels; and

(3) any other activities to restore or improve forest, rangeland, and watershed health, including fish and wildlife habitat.
(d) State as Agent.—Except as provided in subsection (g), a cooperative agreement or contract entered into under subsection (b) may authorize the State forester to serve as the agent for the Secretary in providing the restoration and protection services authorized under subsection (b).

(e) 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 subsection (b).

(f) 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 subsection (b).

(g) 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 Act by a State forester on National Forest System land or Bureau of Land Management land, as applicable, shall not be delegated to a State forester or any other officer or employee of the eligible State.
(h) APPLICABLE LAW.—The restoration and protection services to be provided under this Act shall be carried out on a project-to-project basis under existing authorities of the Forest Service or Bureau of Land Management, as applicable.

SEC. 9. STEWARDSHIP END RESULT CONTRACTING PROJECT AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Section 347(a) 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) is amended by striking “2013” and inserting “2017”.

(b) DURATION OF CONTRACTS.—Section 347(c)(2) 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) is amended by striking “10 years” and inserting “20 years”.