

109TH CONGRESS  
2D SESSION

# S. 2584

To amend the Healthy Forests Restoration Act of 2003 to help reduce the increased risk of severe wildfires to communities in forested areas affected by infestations of bark beetles and other insects, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 6, 2006

Mr. SALAZAR introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Healthy Forests Restoration Act of 2003 to help reduce the increased risk of severe wildfires to communities in forested areas affected by infestations of bark beetles and other insects, 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.**

4       This Act may be cited as the “Rocky Mountain For-  
5       est Insects Response Enhancement and Support Act” or  
6       the “Rocky Mountain FIRES Act”.

7       **SEC. 2. FINDINGS; PURPOSE.**

8       (a) FINDINGS.—Congress finds that—

1           (1) fire beetles, bark beetles, and other insects  
2       that feed on trees are—

3           (A) natural parts of the Rocky Mountain  
4       forest ecology; and

5           (B) shape the forest in a beneficial manner  
6       by thinning dense tree stands and promoting  
7       cyclical re-growth;

8           (2) in various parts of the Rocky Mountain re-  
9       gion large-scale infestations of bark beetles and  
10      other insects, in combination with other factors,  
11      have increased the likelihood of unusually severe  
12      wildfires that pose a threat to individuals and prop-  
13      erties that are located in nearby communities;

14          (3) increased wildfire danger is the result of nu-  
15      merous factors, including—

16           (A) a century-long policy of suppressing  
17      small fires on Federal land that, combined with  
18      a recent reduction in the quantity of timber  
19      harvested on Federal land, has resulted in un-  
20      usually dense vegetation that can provide fuel  
21      for unusually severe wildfires;

22           (B) a pronounced and prolonged drought  
23      that has weakened trees and made the trees  
24      more susceptible to wildfire and insects; and

1 (C) population growth in the mountain  
2 communities adjacent to Federal land, and the  
3 development of ski areas and other recreational  
4 facilities on and in the vicinity of Federal land,  
5 that have increased the number of individuals,  
6 homes, and businesses at risk;

7 (4) the Healthy Forests Restoration Act of  
8 2003 (16 U.S.C. 6501 et seq.) addressed the need  
9 to reduce the volume of fuel that can feed the most  
10 severe fires that threaten communities; and

11 (5) provisions of that Act and other laws need  
12 to be modified to help reduce the increased risk of  
13 severe wildfires to communities in the Rocky Moun-  
14 tain region resulting from the effects of widespread  
15 infestations of bark beetles and other insects.

16 (b) PURPOSE.—The purpose of this Act is to facili-  
17 tate a more expeditious response by the Secretary of Agri-  
18 culture and the Secretary of the Interior in reducing the  
19 increased risk of severe wildfires to communities in the  
20 Rocky Mountain region resulting from the effects of wide-  
21 spread infestations of bark beetles and other insects.

1 **SEC. 3. RESPONSE TO WIDESPREAD INFESTATIONS OF**  
 2 **BARK BEETLES AND OTHER INSECTS ON FED-**  
 3 **ERAL LAND IN THE ROCKY MOUNTAIN RE-**  
 4 **GION.**

5 (a) DEFINITIONS.—Section 101 of the Healthy For-  
 6 ests Restoration Act of 2003 (16 U.S.C. 6511) is amend-  
 7 ed—

8 (1) by redesignating paragraphs (12) through  
 9 (16) as paragraphs (13), (14), (16), (17), and (18),  
 10 respectively;

11 (2) by inserting after paragraph (11) the fol-  
 12 lowing:

13 “(12) INSECT EMERGENCY AREA.—The term  
 14 ‘insect-emergency area’ means Federal land in the  
 15 Rocky Mountain region that—

16 “(A) the Secretary determines is subject to  
 17 a widespread infestation of bark beetles and  
 18 other insects;

19 “(B) is identified for hazardous fuel reduc-  
 20 tion treatment in a community wildfire protec-  
 21 tion plan; and

22 “(C) is characterized by insect-induced tree  
 23 mortality that the Secretary determines has, or  
 24 within 1 year will have, produced a condition  
 25 such that an immediate reduction in hazardous  
 26 fuels is required to reduce the risks to human

1 life and property, or to a municipal water sup-  
 2 ply, from a severe wildfire.”; and

3 (3) by inserting after paragraph (14) (as redes-  
 4 ignated by paragraph (1)) the following:

5 “(15) ROCKY MOUNTAIN REGION.—The term  
 6 ‘Rocky Mountain region’ means the States of Ari-  
 7 zona, Colorado, Idaho, Montana, New Mexico, North  
 8 Dakota, South Dakota, Utah, and Wyoming.”.

9 (b) PRIORITIZATION FOR FEDERAL LAND IN ROCKY  
 10 MOUNTAIN REGION.—Section 103(d)(1) of the Healthy  
 11 Forests Restoration Act of 2003 (16 U.S.C. 6513(d)(1))  
 12 is amended by adding at the end the following:

13 “(D) PRIORITIZATION FOR FEDERAL LAND  
 14 IN ROCKY MOUNTAIN REGION.—The Secretary  
 15 shall use not less than 70 percent of the funds  
 16 allocated for authorized hazardous fuel reduc-  
 17 tion projects in the Rocky Mountain region  
 18 for—

19 “(i) projects in the wildland-urban  
 20 interface; and

21 “(ii) projects on land that—

22 “(I) is in proximity to—

23 “(aa) a municipal water sup-  
 24 ply system; or

1 “(bb) a stream feeding a  
 2 municipal water supply system in  
 3 a municipal watershed; and  
 4 “(II) has been identified for haz-  
 5 ardous fuel reduction projects in com-  
 6 munity wildfire protection plans.”.

7 (c) ALTERNATIVE ANALYSIS PROCESS.—Section  
 8 104(d)(2) of the Healthy Forests Restoration Act of 2003  
 9 (16 U.S.C. 6514(d)(2)) is amended by inserting “or on  
 10 any other land identified for such a project in a commu-  
 11 nity wildfire protection plan for an at-risk community in  
 12 or adjacent to an insect-emergency area” after “at-risk  
 13 community”.

14 (d) INSECT EMERGENCIES.—Title I of the Healthy  
 15 Forests Restoration Act of 2003 (16 U.S.C. 6511 et seq.)  
 16 is amended—

17 (1) by redesignating sections 107 and 108 as  
 18 sections 109 and 110, respectively; and

19 (2) by inserting after section 106 the following:

20 **“SEC. 107. ACTIONS RELATING TO INSECT-EMERGENCY**  
 21 **AREAS.**

22 “(a) DESIGNATION.—

23 “(1) AUTHORITY.—The Secretary may des-  
 24 ignate insect-emergency areas.

1           “(2) BASIS OF DESIGNATION.—The Secretary  
2           shall designate an insect-emergency area based on  
3           the best information available to the Secretary, in-  
4           cluding observation of relevant insect infestations.

5           “(3) INITIATION.—The designation of an in-  
6           sect-emergency area may be made—

7                   “(A) on the initiative of the Secretary; or

8                   “(B) in response to a request by—

9                           “(i) a State agency; or

10                           “(ii) a political subdivision of a State.

11           “(4) DEADLINE.—Not later than 90 days after  
12           the date of receipt of a request under paragraph  
13           (3)(B), the Secretary shall approve or deny the re-  
14           quest.

15           “(5) LIMITATION ON DELEGATION.—In the  
16           case of National Forest System land, the authority  
17           of the Secretary to make a designation under this  
18           section may be delegated only to a Regional For-  
19           ester.

20           “(b) CONSULTATION AND PUBLIC COMMENT.—Be-  
21           fore making a determination to designate an insect-emer-  
22           gency area, the Secretary shall—

23                   “(1) consult with—

1           “(A) any Federal agency responsible for  
2           managing land in an applicable community  
3           wildfire protection plan; and

4           “(B) appropriate State and local officials;  
5           and

6           “(2) provide public notice and an opportunity to  
7           comment.

8           “(c) EFFECT OF DETERMINATION.—

9           “(1) AUTHORIZED HAZARDOUS FUEL REDUC-  
10          TION PROJECTS.—An authorized hazardous fuel re-  
11          duction project involving land in an insect-emergency  
12          area may be categorically excluded from documenta-  
13          tion in an environmental impact statement and envi-  
14          ronmental assessment under the National Environ-  
15          mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
16          if—

17               “(A) the project involves only land that is  
18               identified for hazardous-fuel reduction treat-  
19               ment in a community wildfire protection plan;  
20               and

21               “(B) the decision to categorically exclude  
22               the project is made in accordance with applica-  
23               ble extraordinary circumstances procedures re-  
24               quired by section 1508.4 of title 40, Code of



1 Federal Regulations (or a successive regula-  
2 tion).

3 “(2) STEWARDSHIP PROJECTS.—A stewardship  
4 contracting project under section 347 of the Depart-  
5 ment of the Interior and Related Agencies Appro-  
6 priations Act, 1999 (16 U.S.C. 2104 note; 112 Stat.  
7 2681–298) to carry out a hazardous fuel reduction  
8 project in an insect-emergency area may exceed 10  
9 years, but shall not exceed 15 years, in duration.

10 “(d) PERSONNEL AUTHORITY.—The Secretary may  
11 relocate or reassign personnel of the Forest Service to pro-  
12 vide additional personnel to prepare and carry out—

13 “(1) applied silvicultural assessments under sec-  
14 tion 404 in response to an insect emergency; or

15 “(2) other appropriate actions involving Federal  
16 land subject to an insect emergency.”.

17 (e) HAZARDOUS FUEL REDUCTION PROJECTS.—The  
18 Secretary may allocate funds made available under Section  
19 35 of the Mineral Leasing Act (30 U.S.C. 191) (as amend-  
20 ed by section 4(b)) for hazardous fuel reduction projects  
21 in designated insect emergency areas.

22 (f) CONFORMING AMENDMENT.—The table of con-  
23 tents for the Healthy Forests Restoration Act of 2003 (16  
24 U.S.C. 6501 note; 117 Stat. 1888) is amended by striking

1 the items relating to section 107 and 108 and inserting  
 2 the following:

“Sec. 107. Actions relating to insect-emergency areas.

“Sec. 108. Effect of title.

“Sec. 109. Authorization of appropriations.”

3 **SEC. 4. COMMUNITY WILDFIRE PROTECTION PLAN DEVELOP-**  
 4 **MENT ASSISTANCE FOR AT-RISK COMMU-**  
 5 **NITIES IN THE ROCKY MOUNTAIN REGION.**

6 (a) AVAILABILITY OF ASSISTANCE.—Section 103 of  
 7 the Healthy Forests Restoration Act of 2003 (16 U.S.C.  
 8 6513) is amended by adding at the end the following:

9 “(e) PLANNING ASSISTANCE FOR AT-RISK COMMU-  
 10 NITIES.—

11 “(1) IN GENERAL.—The Secretary, in consulta-  
 12 tion with appropriate State agencies, shall make  
 13 grants to at-risk communities in the Rocky Moun-  
 14 tain region to assist the at-risk communities in pre-  
 15 paring or revising a community wildfire protection  
 16 plan.

17 “(2) SOURCE OF FUNDS.—The Secretary shall  
 18 use amounts made available under section 35(c) of  
 19 the Mineral Leasing Act (30 U.S.C. 191(c)) to carry  
 20 out this subsection.”.

21 (b) FUNDING SOURCE.—Section 35 of the Mineral  
 22 Leasing Act (30 U.S.C. 191) is amended by adding at the  
 23 end the following:

1       “(d) ASSISTANCE FOR AT-RISK COMMUNITIES.—  
 2 Notwithstanding the first sentence of subsection (a),  
 3 \$5,000,000 of the amounts paid into the Treasury under  
 4 subsection (a) for each of fiscal years 2006 through 2010  
 5 shall be made available to the Secretary, without further  
 6 appropriation and until expended, for obligation and ex-  
 7 penditure pursuant to section 103(e) of the Healthy For-  
 8 ests Restoration Act of 2003 (16 U.S.C. 6513(e)).”.

9       **SEC. 5. ADDITIONAL ASSISTANCE FOR PREPARATION OF**  
 10                               **COMMUNITY WILDFIRE PROTECTION PLANS.**

11       Section 33(b)(3) of the Federal Fire Prevention and  
 12 Control Act of 1974 (15 U.S.C. 2229(b)(3)) is amended  
 13 by striking subparagraph (L) and inserting the following:

14                       “(L) To fund fire prevention programs, in-  
 15                       cluding the development of community wildfire  
 16                       protection plans (as defined in section 101 of  
 17                       the Healthy Forests Restoration Act of 2003  
 18                       (16 U.S.C. 6511)).”.

19       **SEC. 6. BIOMASS COMMERCIAL UTILIZATION GRANT PRO-**  
 20                               **GRAM; BIOMASS COLLECTION.**

21       (a) BIOMASS COMMERCIAL UTILIZATION GRANT  
 22 PROGRAM.—The Healthy Forests Restoration Act of 2003  
 23 (16 U.S.C. 6531) is amended by striking section 203 and  
 24 inserting the following:

1   **“SEC. 203. BIOMASS COMMERCIAL UTILIZATION GRANT**  
2                   **PROGRAM.**

3           “(a) PROGRAM AUTHORIZED.—The Secretary may  
4 provide to owners or operators of facilities that use bio-  
5 mass, on an annual basis, grants for use in accordance  
6 with subsection (d).

7           “(b) ELIGIBLE RECIPIENTS.—A grant shall be  
8 awarded under this section only to an owner or operator  
9 of a facility that uses biomass—

10                   “(1) as a raw material to produce—

11                           “(A) electricity;

12                           “(B) sensible heat; or

13                           “(C) transportation fuel;

14                   “(2) for wood-based products; or

15                   “(3) for other commercial purposes.

16           “(c) PRIORITY.—In making grants under this sec-  
17 tion, the Secretary shall give priority to applications sub-  
18 mitted by individuals or entities that purchase biomass re-  
19 moved from land in insect-emergency areas (as defined in  
20 section 101) through an authorized hazardous fuel reduc-  
21 tion project carried out pursuant to section 102.

22           “(d) USE OF GRANT FUNDS.—An owner or operator  
23 who receives a grant pursuant to this section may use  
24 funds from the grant to offset the costs of purchasing bio-  
25 mass.

1       “(e) RELATIONSHIP TO OTHER AUTHORITY.—The  
 2 Secretary may exercise the authority provided by this sec-  
 3 tion in conjunction with, or in addition to, any other au-  
 4 thority of the Secretary to support or stimulate the use  
 5 of biomass fuel.

6       “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
 7 are authorized to be appropriated to the Secretary to carry  
 8 out this section \$10,000,000 for each of fiscal years 2007  
 9 through 2010.”.

10   **“SEC. 204. ESTABLISHMENT OF CENTRAL COLLECTION**  
 11                   **POINTS.**

12       “(a) ESTABLISHMENT.—

13               “(1) IN GENERAL.—To the maximum extent  
 14 practicable, and consistent with relevant land man-  
 15 agement plans, the Secretary shall establish 1 or  
 16 more collection points for the placement of vegeta-  
 17 tive material removed from Federal or other land as  
 18 part of a hazardous fuel reduction project under title  
 19 I.

20               “(2) CONDITIONS FOR ESTABLISHMENT.—

21                   “(A) SAFE TRANSPORTATION OF VEGETA-  
 22 TIVE MATERIAL.—No collection point shall be  
 23 established pursuant to this section if the Sec-  
 24 retary determines that transportation of the  
 25 vegetative material to or from the proposed col-

1           lection point would result in an increased risk  
2           of infestation of insects.

3           “(B) CONSENT OF PROPERTY OWNER.—  
4           No collection point shall be established pursu-  
5           ant to this section on any property not owned  
6           by the United States without the consent of the  
7           owner of the property.

8           “(b) USE.—Vegetative material placed at a collection  
9           point established under this section may be sold, donated,  
10          or otherwise made available to any individual or entity  
11          that agrees to remove the material from the collection  
12          point.”.

13          (b) CONFORMING AMENDMENT.—The table of con-  
14          tents of the Healthy Forests Restoration Act of 2003 (16  
15          U.S.C. 6501 et seq.) is amended by adding after the item  
16          relating to section 203 the following:

          “Sec. 204. Establishment of central collection points.”.

