

112TH CONGRESS
1ST SESSION

H. R. 2562

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

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2011

Mr. GOSAR (for himself, Mr. FLAKE, and Mr. PEARCE) 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 direct the Secretary of Agriculture to take immediate action to recover ecologically and economically from a catastrophic wildfire in the States of Arizona and New Mexico, 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 “Wallow Fire Recovery
5 and Monitoring Act”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to direct the Secretary of
3 Agriculture to take certain actions—

4 (1) to rehabilitate and restore the Wallow Fire
5 Area;

6 (2) to recover material that is fire-damaged, but
7 still merchantable, from the Wallow Fire Area before
8 the material loses economic value;

9 (3) to create defensible space around commu-
10 nities to effectively and safely fight future fires in
11 the vicinity of the Wallow Fire Area;

12 (4) to monitor the environmental and economic
13 effects of the removal of fire-damaged trees from the
14 Wallow Fire Area; and

15 (5) to provide a mechanism to offset the costs
16 of forest restoration in the Wallow Fire Area.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) **BURNED AREA EMERGENCY RESPONSE.**—

20 The term “burned area emergency response” means
21 the process used by the Secretary to plan and imple-
22 ment emergency stabilization actions on Federal
23 land in response to an immediate post-fire condi-
24 tion—

25 (A) to minimize threats to life or property;

26 or

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

5 (2) COMMUNITY PROTECTION MANAGEMENT
6 AREA.—The term “Community Protection Manage-
7 ment Area” means—

8 (A) the wildland-urban interface in a com-
9 munity wildfire protection plan;

10 (B) human development areas having spe-
11 cial significance, including critical communica-
12 tion sites, high voltage transmission lines, devel-
13 oped recreation sites, and other structures that,
14 if destroyed by fire, would result in hardship to
15 communities; and

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

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

23 (4) HAZARD TREE AND COMMERCIAL TIMBER
24 EVALUATION.—The term “hazard tree and commer-
25 cial timber evaluation” means an evaluation of the

1 hazard trees and fire-damaged, dead, and dying tim-
2 ber resources on the National Forest System land in
3 the Wallow Fire Area conducted in accordance with
4 section 4.

5 (5) INDIAN TRIBE.—The term “Indian tribe”
6 has the meaning given the term in section 4 of the
7 Indian Self-Determination and Education Assistance
8 Act (25 U.S.C. 450b).

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

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

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

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

23 (10) WALLOW FIRE AREA.—The term “Wallow
24 Fire Area” means the approximately 538,000-acre
25 fire perimeter in the States of Arizona and New

1 Mexico, as depicted on the map entitled “Wallow
2 Fire Az-ASF-110152 Progression Map” as of June
3 27, 2011 at 2249 hours.

4 **SEC. 4. HAZARD TREE AND COMMERCIAL TIMBER EVALUA-**
5 **TION.**

6 (a) IN GENERAL.—The Secretary shall conduct a
7 hazard tree and commercial timber evaluation that identi-
8 fies timber resources appropriate for removal within the
9 Wallow Fire Area not later than the date that is the ear-
10 lier of—

11 (1) the date that is 30 days after the comple-
12 tion of the burned area emergency response for the
13 Wallow Fire Area; or

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

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

19 (1) a description of—

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

22 (B) the short- and long-term risks the con-
23 ditions pose to forest users, communities, pri-
24 vate property, and remaining resources;

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

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

9 (4) a preliminary determination of—

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

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

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

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

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

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

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

13 (e) DEADLINE FOR COMPLETION.—Not later than 45
14 days after the date on which the Secretary commences the
15 hazard tree and commercial timber evaluation, the Sec-
16 retary shall complete the hazard tree and commercial tim-
17 ber evaluation.

18 **SEC. 5. TIMBER REMOVAL PROJECTS.**

19 (a) TIMBER REMOVAL PROJECT REQUIREMENTS.—

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

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

9 (3) MONITORING REQUIREMENTS.—The Sec-
10 retary shall use an effectiveness monitoring frame-
11 work to assess the ecological and economic effects of
12 tree removal projects carried out under this Act with
13 respect to accomplishing desired outcomes identified
14 in the hazard tree and commercial timber evaluation.

15 (4) LIMITATION.—Nothing in this Act author-
16 izes new permanent road construction for timber re-
17 moval.

18 (5) CONGRESSIONAL INTENT.—It is the intent
19 of Congress that all timber removal projects carried
20 out under this Act be completed by the date that is
21 not later than 18 months after the date of enact-
22 ment of this Act.

23 (b) ENVIRONMENTAL COMPLIANCE.—

24 (1) IN GENERAL.—Except as otherwise pro-
25 vided in this Act, the Secretary shall comply with

1 the National Environmental Policy Act of 1969 (42
2 U.S.C. 4321 et seq.) and other applicable laws in
3 planning and conducting timber removal projects.

4 (2) NEPA REQUIREMENTS.—

5 (A) IN GENERAL.—In the case of a timber
6 removal project to be conducted in a Commu-
7 nity Protection Management Area under this
8 Act, the Secretary shall prepare an environ-
9 mental assessment for the proposed agency ac-
10 tion under section 102(2) of the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C.
12 4332(2)).

13 (B) ALTERNATIVES.—Nothing in this sub-
14 section requires the Secretary to study, develop,
15 or describe any alternative to the proposed
16 agency action in the environmental assessment
17 conducted under subparagraph (A).

18 (C) PUBLIC PARTICIPATION.—The Sec-
19 retary shall provide an opportunity for public
20 participation during the preparation of the envi-
21 ronmental assessment under subparagraph (A),
22 in accordance with existing protocols.

23 (3) ADMINISTRATIVE AND JUDICIAL REVIEW.—

24 Timber removal projects carried out under this Act
25 are subject to the special administrative process and

1 judicial review process under sections 105 and 106
2 of the Healthy Forests Restoration Act of 2003 (16
3 U.S.C. 6515, 6516).

4 (4) USE OF RECEIPTS.—Amounts collected by
5 the Secretary from a timber removal project carried
6 out under this Act shall be available for expenditure
7 by the Secretary for forest restoration treatments in
8 the Wallow Fire Area.

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