

112TH CONGRESS
2D SESSION

H. R. 5744

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

MAY 15, 2012

Mr. GOSAR (for himself, Mr. MATHESON, Mr. ROSS of Arkansas, Mr. WALDEN, Mr. AMODEI, Mr. TIPTON, Mr. BISHOP of Utah, Mr. PEARCE, Mrs. McMORRIS RODGERS, Mrs. LUMMIS, Mr. DUFFY, Mr. BERG, Mr. THOMPSON of Pennsylvania, Mr. DENHAM, Mr. SCHWEIKERT, Mr. SESSIONS, Mr. LONG, Mr. JOHNSON of Ohio, Mr. POMPEO, Mr. COLE, Mr. NUNES, Mr. CARTER, Mr. KING of Iowa, Mr. DESJARLAIS, Mr. FRANKS of Arizona, Mr. GARDNER, Mr. FLAKE, and Mr. QUAYLE) 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, for-

est 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 2012”.

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.
 Sec. 3. Definitions.
 Sec. 4. Authorized wildfire prevention projects.
 Sec. 5. Public review and environmental analysis.
 Sec. 6. Administrative and judicial review.
 Sec. 7. Threatened and endangered species designations.

8 **SEC. 2. PURPOSES.**

9 The purposes of this Act are as follows:

10 (1) Expedite wildfire prevention projects to re-
 11 duce the chances of wildfire, including catastrophic
 12 wildfire, on certain Federal lands.

13 (2) Reduce threats to endangered species from
 14 wildfires.

15 (3) Provide efficiency tools to the Secretary of
 16 Agriculture and the Secretary of the Interior to
 17 streamline projects to reduce the potential for
 18 wildfires.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

1 (1) AT-RISK COMMUNITY.—The term “at-risk
2 community” has the meaning given that term in sec-
3 tion 101 of the Healthy Forests Restoration Act of
4 2003 (16 U.S.C. 6511).

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

7 (A) Federal land where there exists a high
8 risk of losing an at-risk community, key eco-
9 system, wildlife, or wildlife habitat to wildfire,
10 including catastrophic wildfire and post-fire dis-
11 turbances, as documented by the Secretary con-
12 cerned; or

13 (B) Federal land in condition class II or
14 III, as those classes were developed by the For-
15 est Service Rocky Mountain Research Station
16 in the general technical report titled “Develop-
17 ment of Coarse-Scale Spatial Data for Wildland
18 Fire and Fuel Management” (RMRS-87) and
19 dated April 2000 or any subsequent revision of
20 the report.

21 (3) AUTHORIZED WILDFIRE PREVENTION
22 PROJECT.—The term “authorized wildfire prevention
23 project” means the measures and methods developed
24 for a project to be carried out in an at-risk forest
25 or on threatened and endangered species habitat by

1 the Secretary concerned for the purpose of haz-
2 ardous fuels reduction, forest health, forest restora-
3 tion, watershed restoration, or threatened and en-
4 dangered species habitat protection. An authorized
5 wildfire prevention project may include livestock
6 grazing and timber harvest projects carried out for
7 one or more of such purposes.

8 (4) FEDERAL LAND.—

9 (A) COVERED LAND.—The term “Federal
10 land” means—

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

15 (ii) public lands (as defined in section
16 103 of the Federal Land Policy and Man-
17 agement Act of 1976 (43 U.S.C. 1702)).

18 (B) EXCLUDED LAND.—The term does not
19 include land in which the removal of vegetation
20 is specifically prohibited by Federal law unless
21 the land is in an inventoried roadless area or
22 wilderness study area.

23 (5) SECRETARY CONCERNED.—The term “Sec-
24 retary concerned” means—

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

3 (B) the Secretary of the Interior, in the
4 case of public lands.

5 (6) THREATENED AND ENDANGERED SPECIES
6 HABITAT.—The term “threatened and endangered
7 species habitat” means Federal land regarding
8 which natural fire regimes are identified as being
9 important for, or wildfire is identified as a threat to,
10 an endangered species, a threatened species, or habi-
11 tat of an endangered species or threatened species
12 in—

13 (A) a species recovery plan prepared under
14 section 4 of the Endangered Species Act of
15 1973 (16 U.S.C. 1533); or

16 (B) a notice published in the Federal Reg-
17 ister determining a species to be an endangered
18 species or a threatened species or designating
19 critical habitat for an endangered species or a
20 threatened species.

21 **SEC. 4. AUTHORIZED WILDFIRE PREVENTION PROJECTS.**

22 (a) PROJECTS AUTHORIZED.—As soon as practicable
23 after the date of the enactment of this Act, the Secretary
24 concerned shall implement authorized wildfire prevention
25 projects in at-risk forests and on threatened and endan-

1 gered species habitat in a manner that focuses on surface,
2 ladder, and canopy fuels reduction activities.

3 (b) PROJECT ELEMENTS.—

4 (1) THREATENED AND ENDANGERED SPECIES
5 HABITAT.—In the case of an authorized wildfire pre-
6 vention project carried out on threatened and endan-
7 gered species habitat, the project shall be carried
8 out—

9 (A) to provide enhanced protection from
10 wildfire, including catastrophic wildfire, for the
11 endangered species, threatened species, or habi-
12 tat of the endangered species or threatened spe-
13 cies; and

14 (B) in compliance with any applicable
15 guidelines specified in the species recovery plan
16 prepared under section 4 of the Endangered
17 Species Act of 1973 (16 U.S.C. 1533).

18 (2) AT-RISK FORESTS.—In the case of an au-
19 thorized wildfire prevention project carried out in an
20 at-risk forest, the project shall be carried out to
21 move Federal land in condition class II or III to-
22 ward condition class I.

23 (c) GRAZING.—Domestic livestock grazing may be
24 used in an authorized wildfire prevention project to reduce
25 surface fuel loads and to recover burned areas. Utilization

1 standards shall not apply when domestic livestock grazing
2 is used in an authorized wildfire prevention project.

3 (d) **TIMBER HARVESTING AND THINNING.**—Timber
4 harvesting and thinning may be used in an authorized
5 wildfire prevention project to reduce ladder and canopy
6 fuel loads to prevent wildfire, including catastrophic wild-
7 fire.

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

16 (f) **CONSIDERATION OF PUBLIC PETITIONS.**—Not
17 later than 60 days after receiving a public petition for the
18 designation of Federal land as an at-risk forest or as
19 threatened and endangered species habitat, the Secretary
20 concerned shall—

21 (1) review the petition; and

22 (2) make a determination regarding such des-
23 ignation.

24 **SEC. 5. PUBLIC REVIEW AND ENVIRONMENTAL ANALYSIS.**

25 (a) **PUBLIC NOTICE AND COMMENT.**—

1 (1) PROPOSED PROJECTS.—The Secretary con-
2 cerned shall publish in the Federal Register notice
3 of a proposed authorized wildfire prevention project.
4 The public may submit to the Secretary specific
5 written comments that relate to the project within
6 30 days after the date of publication of the notice.

7 (2) FINAL DECISION.—Not later than 60 days
8 after the date on which notice was published under
9 paragraph (1) with regard to a proposed authorized
10 wildfire prevention project and after taking into ac-
11 count any comments received under such paragraph,
12 the Secretary concerned shall designate the final
13 project and publish in the Federal Register notice of
14 final designated project. Only persons who submitted
15 comments regarding the proposed project under
16 paragraph (1) may submit to the Secretary specific
17 written comments that relate to the final designated
18 project. Any comments regarding the final des-
19 ignated prevention project must be submitted within
20 30 days after the date of the publication of the no-
21 tice.

22 (b) ENVIRONMENTAL ANALYSIS GENERALLY.—Ex-
23 cept as otherwise provided in this Act, the Secretary con-
24 cerned shall comply with the National Environmental Pol-
25 icy Act of 1969 (42 U.S.C. 4321 et seq.) and other appli-

1 cable laws in planning and conducting an authorized wild-
2 fire prevention project.

3 (c) INTERAGENCY COOPERATION.—The informal
4 consultation requirements of the Endangered Species Act
5 of 1973 (16 U.S.C. 1531 et seq.), as codified in section
6 402.05 of title 50, Code of Federal Regulations shall apply
7 to an authorized wildfire prevention project.

8 (d) SPECIAL RULES FOR CERTAIN PROJECTS.—

9 (1) COVERED PROJECTS; DEADLINE.—If an au-
10 thorized wildfire prevention project includes timber
11 harvesting or grazing, the Secretary concerned shall
12 prepare an environmental assessment within 30 days
13 after the date on which notice was published under
14 subsection (a)(1) for the proposed agency action
15 under section 102(2) of the National Environmental
16 Policy Act of 1969 (42 U.S.C. 4332(2)).

17 (2) EFFECT OF FAILURE TO MEET DEAD-
18 LINE.—The authorized wildfire prevention project
19 shall be deemed compliant with all requirements of
20 the National Environmental Policy Act of 1969 if
21 the Secretary concerned fails to meet the deadline
22 specified in paragraph (1).

23 (3) PROJECT LENGTHS.—In the case of a live-
24 stock grazing project, the environmental assessment
25 shall be deemed sufficient for a minimum of 10

1 years. In the case of a timber harvest project, the
2 environmental assessment shall be deemed sufficient
3 for a minimum of 20 years.

4 (4) ALTERNATIVES.—Nothing in this section
5 requires the Secretary concerned to study, develop,
6 or describe any alternative to the proposed agency
7 action in the environmental assessment conducted
8 under paragraph (1).

9 (e) EFFECT OF COMPLIANCE.—Compliance with this
10 section shall be deemed to satisfy the requirements of the
11 National Environmental Policy Act of 1969 (42 U.S.C.
12 4331 et seq.), section 14 of the National Forest Manage-
13 ment Act of 1976 (16 U.S.C. 472a), the Endangered Spe-
14 cies Act of 1973 (16 U.S.C. 1531 et seq.), and the Mul-
15 tiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et
16 seq.).

17 **SEC. 6. ADMINISTRATIVE AND JUDICIAL REVIEW.**

18 (a) ADMINISTRATIVE REVIEW.—Administrative re-
19 view of an authorized wildfire prevention project shall
20 occur in accordance with the special administrative review
21 process established under section 105 of the Healthy For-
22 ests Restoration Act of 2003 (16 U.S.C. 6515).

23 (b) JUDICIAL REVIEW.—Judicial review of an au-
24 thorized wildfire prevention project shall occur in accord-

1 ance with section 106 of the Healthy Forests Restoration
2 Act of 2003 (16 U.S.C. 6516).

3 **SEC. 7. THREATENED AND ENDANGERED SPECIES DES-**
4 **IGNATIONS.**

5 Before listing any species under the Endangered Spe-
6 cies Act of 1973 (16 U.S.C. 1531 et seq.), the Secretary
7 concerned shall conduct research to find what impact a
8 listing would have on forest fuel loads, both forage and
9 timber. Endangered species recovery plans and critical
10 habitat determinations shall include wildfire risk assess-
11 ment analysis.

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