

112TH CONGRESS
2D SESSION

S. 2277

To respond to the extreme fire hazard and unsafe conditions resulting from pine beetle infestation, drought, disease, or storm damage by declaring a state of emergency and directing the Secretary of Agriculture to immediately implement hazardous fuels reduction projects in the manner provided in title I of the Healthy Forests Restoration Act of 2003, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2012

Mr. THUNE introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To respond to the extreme fire hazard and unsafe conditions resulting from pine beetle infestation, drought, disease, or storm damage by declaring a state of emergency and directing the Secretary of Agriculture to immediately implement hazardous fuels reduction projects in the manner provided in title I of the Healthy Forests Restoration Act of 2003, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Forest Emer-
3 gency Response Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) forest health and human safety in certain
7 national forests have deteriorated dangerously due to
8 pine beetle infestation, disease, storm damage, and
9 drought; and

10 (2) the resulting fire hazard in those national
11 forests endangers adjacent communities, ranches,
12 State parks, and several units of the National Park
13 System and poses a significant threat to the eco-
14 nomic stability of surrounding areas and the health,
15 safety, and well-being of residents and visitors to
16 those areas.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) **DESIGNATED NATIONAL FOREST.**—The
20 term “designated national forest” means a national
21 forest designated by the Secretary under section
22 4(b).

23 (2) **EMERGENCY CIRCUMSTANCES.**—The term
24 “emergency circumstances” has the meaning given
25 the term in section 1506.11 of title 40, Code of Fed-
26 eral Regulations (or a successor regulation).

1 (3) SECRETARY.—The term “Secretary” means
2 the Secretary of Agriculture.

3 **SEC. 4. DECLARATION OF EMERGENCY AND SELECTION OF**
4 **PILOT PROJECT NATIONAL FORESTS.**

5 (a) IN GENERAL.—In recognition of deteriorating
6 forest health conditions, extreme fire hazard, and the sig-
7 nificant number of dead and dying trees in certain na-
8 tional forests due to pine beetle infestation, drought, dis-
9 ease, or storm damage, and the resulting imminent risk
10 of devastating wildfire that poses a significant threat to
11 the economic stability of surrounding areas and the health,
12 safety, and well-being of residents, firefighters, and visi-
13 tors to the areas, Congress declares that the fire hazard
14 and human endangerment in those national forests des-
15 ignated by the Secretary under subsection (b) constitute
16 emergency circumstances.

17 (b) DESIGNATIONS.—

18 (1) IN GENERAL.—Not later than 60 days after
19 the date of enactment of this Act, the Secretary
20 shall designate not less than 1 national forest in
21 each applicable State that is experiencing conditions
22 that constitute emergency circumstances due to pine
23 beetle infestation, drought, disease, or storm damage
24 and the resulting imminent risk of devastating wild-
25 fire that poses significant threat to the economic

1 stability of surrounding areas and the health, safety,
2 and well-being of residents, firefighters, and visitors
3 to the areas.

4 (2) LIMITATION.—A designation under para-
5 graph (1) shall be for a period not to exceed 10
6 years.

7 **SEC. 5. APPLICATION OF EXPEDITED PROCEDURES AND**
8 **ACTIVITIES OF THE HEALTHY FORESTS RES-**
9 **TORATION ACT OF 2003 TO DESIGNATED FOR-**
10 **EST SERVICE PILOT PROJECTS.**

11 (a) APPLICABILITY.—Subject to subsections (b)
12 through (e), title I of the Healthy Forests Restoration Act
13 of 2003 (16 U.S.C. 6511 et seq.) (including the environ-
14 mental analysis requirements of section 104 of that Act
15 (16 U.S.C. 6514), the special administrative review proc-
16 ess under section 105 of that Act (16 U.S.C. 6515), and
17 the judicial review process under section 106 of that Act
18 (16 U.S.C. 6516)), shall apply to all Forest Service
19 projects and activities implementing the land and resource
20 management plan developed for the designated national
21 forests during the term of the emergency circumstance de-
22 clared under section 4.

23 (b) APPLICATION OF OTHER LAW.—Section 322 of
24 Public Law 102–381 (16 U.S.C. 1612 note; 106 Stat.

1 1419) shall not apply to projects conducted in accordance
2 with this section.

3 (c) REQUIRED MODIFICATIONS.—In applying title I
4 of the Healthy Forests Restoration Act of 2003 (16
5 U.S.C. 6511 et seq.) to Forest Service projects and activi-
6 ties in designated national forests, the Secretary shall
7 make the following modifications:

8 (1) The authority shall apply to the entire des-
9 ignated national forest, including land that is out-
10 side of a wildland-urban interface area or that does
11 not satisfy any of the other eligibility criteria speci-
12 fied in section 102(a) of that Act (16 U.S.C.
13 6512(a)).

14 (2) All projects and activities of the Forest
15 Service, including necessary connected actions (as
16 described in section 1508.25(a)(1) of title 40, Code
17 of Federal Regulations (or a successor regulation)),
18 shall be considered to be authorized hazardous fuel
19 reduction projects for purposes of applying the title.

20 (3) In the case of a project intended to address
21 the existence of an infestation of disease or insects,
22 or the presence of such an infestation on imme-
23 diately adjacent land, the Secretary may proceed
24 with the project if there is any risk the infestation

1 will spread, not just in the event of an imminent risk
2 of the spread of the infestation.

3 (4) Forest Service projects and activities in the
4 designated national forest conducted under title I of
5 that Act shall not be counted toward the limitation
6 in section 102(c) of that Act (16 U.S.C. 6512(c)) on
7 the total quantity of acreage that may be treated
8 under that title.

9 (d) SMALLER PROJECTS.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), a project conducted in a designated na-
12 tional forest in accordance with this section that
13 comprises less than 10,000 acres shall be considered
14 an action categorically excluded from the require-
15 ments for an environmental assessment or an envi-
16 ronmental impact statement under section 1508.4 of
17 title 40, Code of Federal Regulations (or a successor
18 regulation).

19 (2) EXCLUSION OF CERTAIN AREAS.—Para-
20 graph (1) does not apply to—

21 (A) a component of the National Wilder-
22 ness Preservation System;

23 (B) any Federal land on which, by Act of
24 Congress or Presidential proclamation, the re-
25 moval of vegetation is restricted or prohibited;

1 (C) a congressionally designated wilderness
2 study area; or

3 (D) an area in which activities under para-
4 graph (1) would be inconsistent with the appli-
5 cable land and resource management plan.

6 (e) PROHIBITION ON RESTRAINING ORDERS, PRE-
7 LIMINARY INJUNCTIONS, AND OTHER RELIEF PENDING
8 JUDICIAL REVIEW.—

9 (1) IN GENERAL.—No restraining order, pre-
10 liminary injunction, or injunction pending appeal
11 shall be issued by any court of the United States
12 with respect to any decision to engage in any reme-
13 dial action or to prepare, advertise, offer, award, or
14 operate a timber sale under this section in a des-
15 ignated national forest.

16 (2) APPLICABILITY OF OTHER LAW.—Section
17 705 of title 5, United States Code, shall not apply
18 to any challenge to a sale described in paragraph
19 (1).

20 **SEC. 6. GOOD NEIGHBOR AUTHORITY.**

21 (a) DEFINITIONS.—In this section:

22 (1) ELIGIBLE STATE.—The term “eligible
23 State” means a State that contains National Forest
24 System land.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of Agriculture.

3 (3) STATE FORESTER.—The term “State for-
4 ester” means the head of a State agency with juris-
5 diction over State forestry programs in an eligible
6 State.

7 (b) COOPERATIVE AGREEMENTS AND CONTRACTS.—

8 (1) IN GENERAL.—The Secretary may enter
9 into a cooperative agreement or contract (including
10 a sole source contract) with a State forester to au-
11 thorize the State forester to provide the forest,
12 rangeland, and watershed restoration and protection
13 services described in paragraph (2) on National For-
14 est System land in the eligible State.

15 (2) AUTHORIZED SERVICES.—The forest,
16 rangeland, and watershed restoration and protection
17 services referred to in paragraph (1) include the con-
18 duct of—

19 (A) activities to treat insect infected trees;

20 (B) activities to reduce hazardous fuels;

21 and

22 (C) any other activities to restore or im-
23 prove forest, rangeland, and watershed health,
24 including fish and wildlife habitat.

1 (3) STATE AS AGENT.—Except as provided in
2 paragraph (6), a cooperative agreement or contract
3 entered into under paragraph (1) may authorize the
4 State forester to serve as the agent for the Secretary
5 in providing the restoration and protection services
6 authorized under that paragraph.

7 (4) SUBCONTRACTS.—In accordance with appli-
8 cable contract procedures for the eligible State, a
9 State forester may enter into subcontracts to provide
10 the restoration and protection services authorized
11 under a cooperative agreement or contract entered
12 into under paragraph (1).

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

18 (6) RETENTION OF NEPA RESPONSIBILITIES.—
19 Any decision required to be made under the Na-
20 tional Environmental Policy Act of 1969 (42 U.S.C.
21 4321 et seq.) with respect to any restoration and
22 protection services to be provided under this section
23 by a State forester on National Forest System land
24 shall not be delegated to a State forester or any
25 other officer or employee of the eligible State.

1 (7) APPLICABLE LAW.—The restoration and
2 protection services to be provided under this section
3 shall be carried out on a project-to-project basis
4 under existing authorities of the Forest Service.

○