

113TH CONGRESS
2D SESSION

H. R. 4549

To require the Forest Service to meet annual volume targets for timber harvesting in the management of a unit of the National Forest System and to provide for the transfer of such management responsibility to the State in which the unit is located when such targets are not consistently met, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2014

Mr. DUFFY introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To require the Forest Service to meet annual volume targets for timber harvesting in the management of a unit of the National Forest System and to provide for the transfer of such management responsibility to the State in which the unit is located when such targets are not consistently met, 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 “Strong Forests Grow
5 Strong Communities Act of 2014”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ANNUAL VOLUME REQUIREMENT.—

4 (A) IN GENERAL.—The term “annual vol-
5 ume requirement”, with respect to a unit of the
6 National Forest System, means a volume of na-
7 tional forest materials no less than 50 percent
8 of the sustained yield of the unit.

9 (B) EXCLUSIONS.—In determining the vol-
10 ume of national forest materials or the sus-
11 tained yield of a Forest Reserve Revenue Area,
12 the Secretary may not include non-commercial
13 post and pole sales and personal use firewood.

14 (2) APPROPRIATE CONGRESSIONAL COMMIT-
15 TEES.—The term “appropriate congressional com-
16 mittees” means—

17 (A) the Committee on Agriculture and the
18 Committee on Natural Resources of the House
19 of Representatives; and

20 (B) the Committee on Agriculture, Nutri-
21 tion, and Forestry and the Committee on En-
22 ergy and Natural Resources of the Senate.

23 (3) NATIONAL FOREST MATERIALS.—The term
24 “national forest materials” has the meaning given
25 that term in section 14(e)(1) of the National Forest
26 Management Act of 1976 (16 U.S.C. 472a(e)(1)).

1 (4) NATIONAL FOREST SYSTEM.—The term
2 “National Forest System” has the meaning given
3 that term in section 11(a) of the Forest and Range-
4 land Renewable Resources Planning Act of 1974 (16
5 U.S.C. 1609(a)), except that the term does not in-
6 clude the National Grasslands and land utilization
7 projects designated as National Grasslands adminis-
8 tered pursuant to the Act of July 22, 1937 (7
9 U.S.C. 1010–1012).

10 (5) SECRETARY.—The term “Secretary” means
11 the Secretary of Agriculture.

12 (6) SUSTAINED YIELD.—The term “sustained
13 yield” means the maximum annual growth potential
14 of the forest calculated on the basis of the culmina-
15 tion of mean annual increment using cubic measure-
16 ment.

17 (7) STATE.—The term “State” includes the
18 Commonwealth of Puerto Rico.

19 **SEC. 3. ANNUAL VOLUME REQUIREMENT.**

20 (a) PUBLICATION.—Not later than 30 days after the
21 date of the enactment of this Act, the Secretary shall pub-
22 lish in the Federal Register, make available on the website
23 of the Forest Service, and submit to the appropriate con-
24 gressional committees the annual volume requirement for
25 each unit of the National Forest System.

1 (b) REVISION.—Upon publication of the annual vol-
2 ume requirement for a unit of the National Forest System
3 under subsection (a), the Secretary may not reduce the
4 annual volume requirement for that unit without the con-
5 sent of Congress in a law enacted after the date of the
6 enactment of this Act.

7 **SEC. 4. MANAGEMENT OF NATIONAL FOREST SYSTEM**
8 **LANDS TO SATISFY ANNUAL VOLUME RE-**
9 **QUIREMENTS.**

10 (a) REQUIREMENT TO ACHIEVE ANNUAL VOLUME
11 REQUIREMENT.—The Secretary shall manage the sale of
12 national forest materials in each unit of the National For-
13 est System in the manner necessary so that the annual
14 volume requirement for that unit is met each calendar
15 year.

16 (b) APPLICATION OF LAND AND RESOURCE MANAGE-
17 MENT PLAN.—The Secretary may modify the standards
18 and guidelines contained in the land and resource manage-
19 ment plan for a unit of the National Forest System as
20 necessary so as to meet the annual volume requirement
21 for that unit.

22 (c) COMPLIANCE WITH ENDANGERED SPECIES
23 ACT.—

24 (1) NON-JEOPARDY ASSESSMENT.—If the Sec-
25 retary determines that a sale of national forest ma-

1 materials may affect the continued existence of any spe-
2 cies listed as endangered or threatened under section
3 4 of the Endangered Species Act of 1973 (16 U.S.C.
4 1533), the Secretary shall issue a determination ex-
5 plaining the view of the Secretary that the proposed
6 sale is not likely to jeopardize the continued exist-
7 ence of the species.

8 (2) SUBMISSION, REVIEW, AND RESPONSE.—

9 (A) SUBMISSION.—The Secretary shall
10 submit a determination issued by the Secretary
11 under paragraph (1) to the Secretary of the In-
12 terior or the Secretary of Commerce, as appro-
13 priate.

14 (B) REVIEW AND RESPONSE.—Within 30
15 days after receiving a determination under sub-
16 paragraph (A), the Secretary of the Interior or
17 the Secretary of Commerce, as appropriate,
18 shall provide a written response to the Sec-
19 retary concurring in or rejecting the Secretary's
20 determination. If the Secretary of the Interior
21 or the Secretary of Commerce rejects the deter-
22 mination, the written response shall include rec-
23 ommendations for measures that—

24 (i) will avoid the likelihood of jeopardy
25 to an endangered or threatened species;

1 (ii) can be implemented in a manner
 2 consistent with the intended purpose of the
 3 sale;

4 (iii) can be implemented consistent
 5 with the scope of the Secretary's legal au-
 6 thority and jurisdiction; and

7 (iv) are economically and techno-
 8 logically feasible.

9 (3) FORMAL CONSULTATION.—If the Secretary
 10 of the Interior or the Secretary of Commerce rejects
 11 a determination issued by the Secretary under para-
 12 graph (1), the Secretary of the Interior or the Sec-
 13 retary of Commerce also is required to engage in
 14 formal consultation with the Secretary. The Secre-
 15 taries shall complete such consultation pursuant to
 16 section 7 of the Endangered Species Act of 1973 (16
 17 U.S.C. 1536) within 90 days after the submission of
 18 the written response under paragraph (2).

19 **SEC. 5. STATE MANAGEMENT OF NATIONAL FOREST SYS-**
 20 **TEM LANDS WHEN ANNUAL VOLUME RE-**
 21 **QUIREMENTS ARE NOT MET.**

22 (a) REQUEST BY STATE TO MANAGE UNIT.—

23 (1) SUBMISSION OF REQUEST; WHEN AUTHOR-
 24 IZED.—If the Secretary fails to meet the annual vol-
 25 ume requirement for a unit of the National Forest

1 System for five calendar years, whether consecutively
2 or over a longer than five-year period, the State in
3 which the unit is located may submit to the Sec-
4 retary a request to enter into a cooperative agree-
5 ment with the Secretary for purposes of managing
6 the unit.

7 (2) ROLE OF POLITICAL SUBDIVISIONS.—A
8 State that undertakes the management of a unit of
9 the National Forest System under this section may
10 conduct such management directly, through an
11 agreement with a political subdivision of the State in
12 which National Forest System lands of that unit are
13 located, or through contracts with third parties.

14 (3) TREATMENT OF UNITS LOCATED IN MUL-
15 TIPLE STATES.—If a unit of the National Forest
16 System is located in more than one State, a State's
17 request under paragraph (1) shall cover only those
18 National Forest System lands of that unit located in
19 that State.

20 (b) APPROVAL OF REQUEST.—Not later than 90 days
21 after the date on which the Secretary receives the request
22 under subsection (a), the Secretary shall approve the re-
23 quest and enter into the cooperative agreement unless the
24 Secretary determines that—

1 (1) the State has failed to demonstrate that it
2 has sufficient funds to manage the unit of the Na-
3 tional Forest System for the production of national
4 forest materials;

5 (2) the request is incomplete; or

6 (3) the proposed cooperative agreement sub-
7 mitted with the request fails to address all of the
8 items specified in subsection (f).

9 (c) OPPORTUNITY TO AMEND REQUEST.—

10 (1) NOTICE OF DENIAL.—If the Secretary de-
11 nies a request received under subsection (a) on the
12 basis of one or more of the reasons authorized by
13 subsection (b), the Secretary shall provide the State
14 with a clear and comprehensive statement of—

15 (A) the reasons why the request was de-
16 nied; and

17 (B) any deficiencies in the request or the
18 related proposed cooperative agreement.

19 (2) RESUBMISSION.—After receiving a notice
20 from the Secretary under paragraph (1), a State
21 may amend and resubmit the denied request.

22 (d) REQUEST AND COOPERATIVE AGREEMENT
23 DEEMED APPROVED.—If the Secretary does not approve
24 or deny a request submitted under subsection (a) or (c)(2)
25 within the 90 days after receiving the request, the request

1 and the proposed cooperative agreement submitted with
2 the request shall be deemed approved.

3 (e) REQUEST CONTENTS.—A request submitted
4 under subsection (a) shall include—

5 (1) a letter signed by the Governor of the State
6 addressed to the Secretary that identifies the unit of
7 the National Forest System that the State will man-
8 age for the production of national forest materials;

9 (2) the proposed cooperative agreement for
10 State management of the unit;

11 (3) the proposed role of political subdivisions of
12 the State in the management of National Forest
13 System lands of the unit located within the political
14 subdivisions; and

15 (4) documentation that demonstrates the ability
16 of the State to provide sufficient funds to manage
17 the unit for the duration of the cooperative agree-
18 ment.

19 (f) ELEMENTS OF COOPERATIVE AGREEMENT.—The
20 cooperative agreement entered into by the Secretary and
21 the Governor of a State for the management of a unit
22 of the National Forest System shall address the following:

23 (1) The State's management of the unit after
24 the effective date of the transfer of management to
25 the State for a specified term of years.

1 (2) A cost-sharing agreement under which the
2 State will provide a certain amount (equal to not
3 less than 50 percent), in cash or in-kind, of the total
4 amount required for the management of the unit.

5 (3) The amount to be contributed by the State
6 shall be determined by the Governor of the State
7 and the Secretary, only after the Secretary submits
8 to the State a categorical assessment of all costs, in
9 the recent past and anticipated during the duration
10 of the cooperative agreement, of managing the unit,
11 including employee salary data.

12 (4) In the event of a natural disaster, as cat-
13 egorized by the Federal Emergency Management
14 Agency, the State shall assume authority over recov-
15 ery initiatives (nullifying any existing established
16 Federal response protocol) so that—

17 (A) the cost of damages to any structure
18 on the unit be shared by both State and Fed-
19 eral entities at a ratio in accordance to the cost-
20 sharing agreement; and

21 (B) the cost and administration of repair
22 of damages resulting from natural disasters,
23 not including structures referred to in subpara-
24 graph (A), shall be assumed by the State rather
25 than the Federal Government.

1 (5) All revenue accrued from fees, royalties, and
2 other revenues related to the unit shall be distrib-
3 uted to the State and Federal entities in accordance
4 to the percentages dictated by the cost-sharing
5 agreement and shall be used so that the percentage
6 of funds designated to the Federal entity shall be
7 made available to the Secretary for use at the sole
8 discretion of the Secretary.

9 (6) The procedures to be followed for purposes
10 of the transition from Federal to State management
11 of the unit, including—

12 (A) a guarantee that all Federal employees
13 managing the unit may remain employed with-
14 out infringement upon their existing conditions
15 of employment;

16 (B) a guarantee that the State may use its
17 percentage of the amounts required for the
18 management of the unit to hire additional staff
19 whose terms of employment shall be decided by
20 the State; and

21 (C) authority over the unit shall be di-
22 rected by the State and a State-appointed man-
23 ager, but the implementation of its directives
24 may include the existing Federal superintendent

1 concerned and performed in conjunction with
2 State employees.

3 (7) The transfer to the State of any special use
4 permits issued to the Secretary with respect to the
5 unit.

6 (8) A provision stating that lands currently
7 open to mineral entry under the Act of May 10,
8 1872 (commonly referred to as the General Mining
9 Act of 1872; 30 U.S.C. 22 et seq.), shall remain
10 open to mineral entry under State law unless subse-
11 quently changed by a State mineral closing order.

12 (g) APPLICABILITY OF STATE LAW ON QUALIFYING
13 FEDERAL LANDS UNDER COOPERATIVE AGREEMENT.—
14 State environmental, wildlife, and land management laws
15 shall supercede Federal environmental, wildlife, and land
16 management laws on a unit of the National Forest System
17 managed by a State under a cooperative agreement in
18 place under this section.

19 (h) OWNERSHIP.—Notwithstanding State manage-
20 ment of a unit of the National Forest System under a
21 cooperative agreement entered into under this section, the
22 United States shall retain all right, title, and interest in
23 and to the National Forest System lands within the unit.

24 (i) TERMINATION OF COOPERATIVE AGREEMENT.—
25 A cooperative agreement applicable under this section

1 shall terminate, at the discretion of the Secretary, under
2 the following circumstances:

3 (1) The State defaults on a payment, thereby
4 requiring Federal entities to assume responsibility
5 for the financial liabilities.

6 (2) The State is in substantial breach of the co-
7 operative agreement as determined by a court of the
8 United States.

9 (3) The cooperative agreement terminates
10 under a term contained in that agreement.

11 **SEC. 6. ANNUAL REPORT.**

12 (a) REPORT REQUIRED.—Not later than 60 days
13 after the end of each calendar year, the Secretary shall
14 submit to the appropriate congressional committees an an-
15 nual report specifying—

16 (1) the annual volume requirement in effect for
17 that calendar year for each unit of the National For-
18 est System;

19 (2) the units that did not meet the annual vol-
20 ume requirement;

21 (3) the units under State management pursu-
22 ant to section 5;

23 (4) the volume of board feet actually harvested
24 for each unit;

1 (5) the average cost of preparation for sales of
2 national forest materials; and

3 (6) the revenues generated from such sales.

4 (b) FORM OF REPORT.—In addition to submitting
5 each report to Congress, the Secretary shall also make the
6 report available on the website of the Forest Service.

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