

112TH CONGRESS
1ST SESSION

H. R. 1485

To address the public health and safety threat presented by the risk of catastrophic wildfire on Federal forestlands by requiring the Secretary of Agriculture and the Secretary of the Interior to expedite forest management projects relating to hazardous fuels reduction, forest restoration, forest health, and watershed restoration.

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2011

Mr. HERGER (for himself, Mr. MCCLINTOCK, Mrs. McMORRIS RODGERS, Mr. BISHOP of Utah, Mr. CHAFFETZ, Mr. NUNES, Mr. HUNTER, Mr. GALLEGLY, Mr. COFFMAN of Colorado, and Mr. DENHAM) 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 address the public health and safety threat presented by the risk of catastrophic wildfire on Federal forestlands by requiring the Secretary of Agriculture and the Secretary of the Interior to expedite forest management projects relating to hazardous fuels reduction, forest restoration, forest health, and watershed restoration.

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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Catastrophic Wildfire Community Protection Act”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Project authority consistent with community wildfire protection plan.
- Sec. 4. Elements of eligible projects.
- Sec. 5. Environmental analysis.
- Sec. 6. Administrative and judicial review.
- Sec. 7. Acceptance and use of funds or in-kind services.
- Sec. 8. Report.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) AT-RISK COMMUNITY.—The term “at-risk
9 community” has the meaning given that term in sec-
10 tion 101 of the Healthy Forests Restoration Act of
11 2003 (16 U.S.C. 6511).

12 (2) AT-RISK WATERSHED.—The term “at-risk
13 watershed” means a watershed where—

14 (A) there exists a high risk of losing key
15 ecosystem, wildlife, and watershed components
16 to severe fire, including post-fire disturbances,
17 as documented by the Secretary concerned; and

18 (B) there are Federal lands in condition
19 class II or III, as developed by the Forest Serv-
20 ice Rocky Mountain Research Station in the
21 general technical report titled “Development of
22 Coarse-Scale Spatial Data for Wildland Fire

1 and Fuel Management” (RMRS–87) and dated
2 April 2000 (including any subsequent revision
3 to the report).

4 (3) COMMUNITY WILDFIRE PROTECTION
5 PLAN.—The term “community wildfire protection
6 plan” has the meaning given that term in section
7 101 of the Healthy Forests Restoration Act of 2003
8 (16 U.S.C. 6511).

9 (4) COVERED FOREST LANDS.—

10 (A) INCLUDED LANDS.—The term “cov-
11 ered forest lands” means—

12 (i) National Forest System lands; and

13 (ii) Public land administered by the
14 Secretary of the Interior through the Bu-
15 reau of Land Management.

16 (B) EXCLUDED LAND.—The term does not
17 include land that is a component of the Na-
18 tional Wilderness Preservation System or other
19 Federal land (other than inventoried roadless
20 areas and wilderness study areas) in which the
21 removal of vegetation is specifically prohibited
22 by Federal law.

23 (5) ELIGIBLE PROJECT.—The term “eligible
24 project” means the measures and methods included
25 in a project carried out on covered forest lands by

1 the Secretary concerned for hazardous fuels reduc-
2 tion, forest health, forest restoration, and watershed
3 restoration.

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

6 (A) the Secretary of Agriculture, in the
7 case of National Forest System lands; and

8 (B) the Secretary of the Interior, in the
9 case of public land administered by the Sec-
10 retary of the Interior through the Bureau of
11 Land Management.

12 **SEC. 3. PROJECT AUTHORITY CONSISTENT WITH COMMU-**
13 **NITY WILDFIRE PROTECTION PLAN.**

14 The Secretary concerned shall carry out eligible
15 projects on covered forest lands that are within or adja-
16 cent to an at-risk community or an at-risk watershed if
17 the eligible project is consistent with the applicable com-
18 munity wildfire protection plan.

19 **SEC. 4. ELEMENTS OF ELIGIBLE PROJECTS.**

20 Eligible projects on covered forest lands shall be car-
21 ried out in a cost-effective manner that—

22 (1) focuses on surface, ladder, and canopy fuels
23 reduction activities; or

24 (2) implements forest restoration activities in
25 response to severe fire, insect, or disease infestation,

1 windthrow, or other extreme weather events or nat-
2 ural disasters.

3 **SEC. 5. ENVIRONMENTAL ANALYSIS.**

4 (a) GENERAL RULE OF PROPOSED ACTION AND NO
5 ACTION ALTERNATIVE.—

6 (1) ENVIRONMENTAL ASSESSMENT AND ENVI-
7 RONMENTAL IMPACT STATEMENT.—The Secretary
8 concerned shall prepare an environmental assess-
9 ment or an environmental impact statement pursu-
10 ant to section 102(2) of the National Environmental
11 Policy Act of 1969 (42 U.S.C. 4332(2)) for each
12 proposed eligible project. The Secretary concerned
13 shall study, develop, and describe the proposed ac-
14 tion and the alternative of no action. Except as pro-
15 vided in subsection (b), the Secretary concerned is
16 not required to study, develop, or describe any alter-
17 native actions to the proposed agency action.

18 (2) DEADLINE FOR COMPLETION.—An environ-
19 mental assessment prepared for a proposed eligible
20 project shall be completed within one year of the
21 commencement of preparation of the assessment. An
22 environmental impact statement prepared for a pro-
23 posed eligible project shall be completed within 18
24 months of the commencement of preparation of the
25 environmental impact statement.

1 (b) CONSIDERATION OF ALTERNATIVE REC-
2 OMMENDATION.—The Secretary concerned shall evaluate
3 and consider an alternative recommendation submitted by
4 the county in which a proposed eligible project is to be
5 carried out if the county determines that the proposed eli-
6 gible project is or may be inconsistent with its community
7 wildfire protection plan. The Secretary shall publish the
8 evaluation and consideration of the alternative rec-
9 ommendation in the environmental assessment or environ-
10 mental impact statement prepared pursuant to section
11 102(2) of the National Environmental Policy Act of 1969
12 (42 U.S.C. 4332(2)) for the proposed eligible project.

13 (c) EFFECT OF COUNTY EMERGENCY.—

14 (1) COUNCIL ON ENVIRONMENTAL QUALITY.—

15 If a categorical exclusion is unavailable for a pro-
16 posed eligible project, the Secretary concerned shall
17 request, pursuant to section 1506.11 of title 40,
18 Code of Federal Regulations, the Council on Envi-
19 ronmental Quality to develop and approve alter-
20 native arrangements for the proposed eligible project
21 if the county in which the proposed eligible project
22 is to be carried out declares, in consultation with the
23 State forester or equivalent State official of the
24 State containing the county—

25 (A) a state of emergency; or

1 (B) the existence of a dangerous nuisance
2 to public safety, welfare, infrastructure, water-
3 sheds, wildlife habitat, or other vital assets due
4 to the accumulation of forest fuels and the as-
5 sociated risk of extreme fire on covered forest
6 lands.

7 (2) MANDATORY INFORMATION.—When re-
8 questing alternative arrangements under paragraph
9 (1), the Secretary concerned shall transmit to the
10 Council on Environmental Quality the following in-
11 formation:

12 (A) A description of the proposed eligible
13 project.

14 (B) The condition of forest fuels within or
15 near the proposed eligible project.

16 (C) The threat to public safety, welfare, in-
17 frastructure, watersheds, wildlife habitat, or
18 other vital assets due to the accumulation of
19 forest fuels and the associated risk of extreme
20 fire that the proposed eligible project is to re-
21 lieve.

22 (D) The degree to which delaying the im-
23 plementation of the proposed eligible project
24 will increase the risk of serious harm to public
25 safety, welfare, infrastructure, watersheds, wild-

1 life habitat, or other vital assets due to the ac-
2 cumulation of forest fuels and the associated
3 risk of extreme fire.

4 (E) Any other information the Secretary
5 concerned determines relevant.

6 (3) DEADLINE FOR ALTERNATIVE ARRANGE-
7 MENTS.—

8 (A) DEADLINE.—Not later than 15 days
9 after receipt of a request under paragraph (1)
10 for approval of alternative arrangements for a
11 proposed eligible project, the Council on Envi-
12 ronmental Quality shall submit to the Secretary
13 concerned the alternative arrangements under
14 which the Secretary may proceed immediately
15 and to completion of the proposed eligible
16 project.

17 (B) FAILURE TO COMPLY.—If the Council
18 on Environmental Quality fails to comply with
19 the deadline in subparagraph (A), the Secretary
20 concerned shall proceed immediately and to
21 completion of the proposed eligible project not-
22 withstanding any other provision of law, includ-
23 ing the National Environmental Policy Act of
24 1969 (42 U.S.C. 4321 et seq.) and the National

1 Forest Management Act (16 U.S.C. 1601 et
2 seq.).

3 (4) ADMINISTRATIVE AND JUDICIAL REVIEW.—
4 Actions under this subsection shall not be subject
5 to—

6 (A) the notice, comment, and appeal re-
7 quirements of section 322 of Public Law 102–
8 381 (the Appeals Reform Act; 16 U.S.C. 1612
9 note); and

10 (B) judicial review by any court of the
11 United States.

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

13 (a) ADMINISTRATIVE REVIEW.—Administrative re-
14 view of eligible projects shall occur in accordance with the
15 special administrative review process established under
16 section 105 of the Healthy Forests Restoration Act of
17 2003 (16 U.S.C. 6515).

18 (b) JUDICIAL REVIEW.—Judicial review of eligible
19 projects shall occur in accordance with section 106 of the
20 Healthy Forests Restoration Act of 2003 (16 U.S.C.
21 6516).

1 **SEC. 7. ACCEPTANCE AND USE OF FUNDS OR IN-KIND**
2 **SERVICES.**

3 The Secretary concerned may accept and use funds
4 or in-kind services from any public or private entity to
5 assist carrying out eligible projects under this Act.

6 **SEC. 8. REPORT.**

7 The Secretary concerned shall submit to the Com-
8 mittee on Natural Resources of the House of Representa-
9 tives and the Committee on Energy and Natural Re-
10 sources of the Senate an annual report describing all eligi-
11 ble projects conducted under this Act.

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